

CENTRAL ARIZONA PROJECT

OVERSIGHT HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON
NATURAL RESOURCES
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
FIRST SESSION
ON THE
CENTRAL ARIZONA PROJECT

HEARING HELD IN PHOENIX, AZ
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CENTRAL ARIZONA PROJECT

FRIDAY, DECEMBER 10, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to call, at 9:30 a.m. in the Phoenix Civic Plaza, Phoenix, Arizona, Hon. George Miller [chairman of the subcommittee] presiding.

STATEMENT OF HON. GEORGE MILLER

Mr. MILLER. The Committee on Natural Resources will come to order. The purpose of this hearing is to conduct an oversight hearing on the Central Arizona Project, and I would certainly like to welcome all of the members of the audience to the hearing.

I am Congressman George Miller from California, chairman of the Committee on Natural Resources. I would like to welcome my colleagues to the hearing from the Arizona delegation.

Just a quick word in starting out. First of all, as I think you can see, we have a considerable witness list, and for us to get through this hearing, people, to the extent they can in their testimony, must stay within the five-minute limit. Clearly there are questions that members of the panel seek to ask the witnesses.

People will be allowed to extend or to revise their remarks. We will keep the record of this hearing open for the next two weeks so that people can make submissions based upon either additions to what they have said or what somebody else has said that they disagree with, or what we have said that they disagree with or agree with. For members of the audience, we were not able to accommodate everyone as a formal witness, but certainly members of the audience should feel free to make submissions to the committee during this time period if they believe there is information that will be helpful to the committee in conducting this oversight hearing of the CAP.

We will try to hold to the time limits in a tight fashion. We are trying to meet a 3:00 p.m. deadline in terms of concluding this hearing because we have plane connections to make. I would appreciate everybody's cooperation with that.

Finally, let me just say that it is a pleasure to be in Arizona. Yesterday I had the opportunity to tour many of the features of the Central Arizona Project. I saw more of Arizona than I knew existed, but it was a pleasure. Congressman Pastor accompanied me on that tour and gave me a running history of both the project and the various communities that we flew over.

And yesterday I had a long meeting with Congresswoman English about the project and about this hearing.

It has become evident to me that there is a great deal of speculation about what the purpose of this hearing is, or what the agenda is, or what the motives are. I think we ought to put this into perspective.

And that perspective fits into the history of this committee. We have authorized some of the great water projects of this country that have delivered millions and billions of dollars in benefits to the country, to communities, to States, and to others. We have also been charged with the obligation to see that in fact the purposes for which we have authorized those projects are being carried out, and the agreements that were entered into are carried out. Those must be carried out both on behalf of the Federal Government, our rights and obligations, and on behalf of the beneficiaries or the perceived beneficiaries as to their rights and obligations.

Our charge is really no more than that and no less than that. That doesn't mean that charge is without controversy. It doesn't mean that charge is without emotion. But as I look across this room and I see many familiar faces in this room who have been around the great water issues of the West for many, many, many years, I think it is also fair to say that we all understand that not only have these projects changed in terms of our perception and our intentions, and the purposes, but so has the West changed with regard to these projects.

Arizona is a far different State today than people envisioned when they first started thinking and talking about the Central Arizona Project, as is my own State, when people first started to create and to build the Central Valley Project of California.

Our economies are different, our residents are different, their sense of history is different, and clearly the cost of the project has exceeded all of our wildest imaginations. That in itself is not a bad thing. Everything has exceeded our wildest imaginations in terms of cost in this country, unfortunately.

But I think that we have an obligation as a committee, and certainly as Members of Congress, to periodically review this. This project, like many in the West, has come to a point where people are questioning its original purposes, questioning whether or not they can participate as farmers or as cities or as other entities in the project. Because of all of the changes, they are asking whether they should participate, whether they are getting the deal that they perceived they had at the outset, and whether it can all be tucked into an affordable package.

That again is nothing new to me as chairman of this committee or to the members of this committee. We have been going through this process now essentially over the last ten years with all of the great water projects in the West.

I like to think that this committee has also been able to sort out all of the competing differences, and in fact has been able to put together proposals that have been acceptable to the citizens of California, to the citizens of Utah, to the citizens of North Dakota, and to other areas where the projects' purposes have had difficulty in being met.

A lot of people have speculated, what is my purpose? The chairman from California, a historical competitor for water with everybody else in the world, not just Arizona, and with great dreamers and designers of dramatic projects to bring water from the Arctic Circle or to bring water from the Colorado River.

My agenda is very simple. This is the Central Arizona Project. It was designed to deliver benefits to the State, to the citizens of Arizona, and I think we have an obligation to see that that in fact is carried out.

We also have an obligation to see that that is carried out with the full protection of the American taxpayers who are not citizens of Arizona, who have made a very hefty investment in this and are relying on certain agreements. Those are the only two issues that really arise.

We will see this morning that there are a whole series of proposals on how that should be done. This committee did not create the concern and some of the controversy that surrounds this project at this moment. This committee is simply responding to that.

Clearly the Governor's office, with the creation of the advisory committee, and the districts, with the creation of their submissions this morning to the State and to the other principals about how this project should be conducted in the future, recognize there are some thresholds that are going to have to be met and changes that will have to be created if the project is in fact going to survive in terms of its purposes and the benefits the people of this State seek.

We are here to collect that information and to match it against the facts, and our understanding of the future of this project, and of the Federal commitments and obligations.

And we will do that. I think it is clear to see at the outset that it is very difficult. Although people from time to time have desired to do this, it is very difficult to bring about a comprehensive solution to the issues that are raised in major water projects at this stage in their completion, without the very serious involvement and cooperation of the Federal Government. So I think people should understand that.

I hope that that helps to clarify the issues and the purposes of this hearing. I have listened to and read about, for many years, all of the speculation about my intents and the intent of this committee, most of which is usually in the interest of the person speaking, not terribly in the interest of resolving the issue.

But the fact is I think you will find out that I am fairly candid, I do not play to hidden agendas, and I am very straightforward. We will conduct ourselves as a committee in that fashion. And I think we will do so clearly trying at every step of the way to recognize the interests of the people of the State of Arizona.

I would ask the same courtesy and respect for the people of the State of California that I represent when we undergo these kinds of hearings. I have had the pleasure of working very closely with Congresswoman English on this issue over the last year. I don't know how many meetings I have spent discussing this, but she has been very helpful as a member of this committee to provide me some guidance as to all of the various pitfalls that can be set out there, as you meander through a community other than your own.

And at this point, I would like to recognize Congresswoman English for any statement that she has at this time.

STATEMENT OF HON. KARAN ENGLISH

Ms. ENGLISH. Thank you, very much. Thank you, Mr. Chairman, and welcome to the great State of Arizona. I do have some brief remarks that I would like to make before we turn our attention to today's witnesses.

Mr. Chairman, let me be the first of many people today who will stress the overwhelming importance of the successful operation of the Central Arizona Project to the economic future of Arizona.

As you are well aware, all economic activity in the arid West is directly linked to the availability of reliable water resources. In Arizona, the CAP is the linchpin of the State's strategy to secure a reliable—and renewable—water source to fuel our economic future.

But a variety of difficult and complex problems stand in our way. Many people from across the State have lent their time and talents to searching for solutions to the CAP's problems.

In short, Mr. Chairman, Arizona has not sat idly by in the face of these problems. There have been many good-faith efforts to seek creative solutions and to make sure the CAP returns to a healthy financial condition. And these efforts are continuing.

We in Arizona take our CAP repayment obligations very seriously. We are determined to work with the Federal Government at every opportunity to make sure that our obligations are met. Now is the time to put aside old assumptions and discuss new and creative solutions, many of which have already been proposed by the Central Arizona Water Conservation District (hereafter CAWCD or the District), the Governor's CAP Advisory Committee, and others.

This work must be continued and expanded as we gain a more complete understanding of the nature and extent of the problems that must be confronted if we are to reach our goal of providing a secure long-term water supply.

This work must be carried out within the context of protecting and preserving Arizona's ability to hold onto its entitlement of Colorado River water to improve the quality of life for Arizonans. We will not surrender our economic future. And I am convinced that creative solutions can be found. I am eager to take part in this effort, to help in every way that I can to forge a consensus solution that ensures the long-term integrity of the project.

Mr. Chairman, I look forward to hearing from today's witnesses. As we have discussed on many occasions, the future of the CAP is in many ways the future of Arizona. We appreciate your interest in this matter and look forward to working with you and the entire Natural Resources Committee to make sure that any congressional actions regarding the Central Arizona Project contribute to the project's ability to deliver a reliable and renewable water supply for our cities, towns, industries, and agricultural and Native American communities over the long term.

I personally want to thank every one of you here today participating in this process and look forward to the discussions.

Thank you, Mr. Chairman.

Mr. MILLER. Thank you. Mr. Pastor.

**STATEMENT OF HON. ED PASTOR, A PREPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. PASTOR. Mr. Chairman, I ask unanimous consent to revise and extend my remarks. In the interests of time, I will submit my statement for the record.

First of all, let me welcome you to Arizona, in particular to the Second District. As you told the audience, we spent yesterday traveling throughout the CAP structures. I look forward to working with you in finding resolutions to the problems that we may have with the CAP.

Over the years, as you look at this project, you will find that Arizonans, like Barry Goldwater, Mo Udall, John Rhodes, and Carl Hayden (of different political parties and different etiologies) all came together to make sure that this great public works project was successful.

And today you see the congressional delegation from both parties here at this hearing to show the continued determination that we have to solve any problems that the CAP may have.

We want to ensure its future and make sure that Arizona has a sound economic base. But I have to tell you, Mr. Chairman, that you did bother me a couple of times on the flights we took together yesterday. We landed in various locations and had the honor of meeting with Mayor Miller and Governor White, we also visited the Roosevelt Dam.

And several times after we landed in those other locations, Mr. Chairman, you did ask me how far, in terms of miles, it was from the site to the California border.

But welcome again, Chairman Miller. I am glad you are having this hearing, and I thank all the witnesses for being here to give their views and insight into the future of the Central Arizona Project.

[Prepared statement of Mr. Pastor follows:]

Mr. Chairman, I would like to both welcome you to Phoenix and thank you for allowing me to say a few, brief words today on behalf of Arizona's most important public works project.

If there is one thought that I, and the people of Arizona, would like you to walk away with today, it is the determination of the people of this great State to successfully work together to solve any problem that the Central Arizona Project faces. In a very real sense, the fact that we are having this hearing today, a hearing on a functioning and operating CAP, testifies to the long tradition of hard work, compromise, and unity of determination that has characterized the efforts of thousands to bring Colorado River water to Arizona's farmlands and cities.

As you well know Mr. Chairman, the efforts that made the CAP a reality crossed many boundaries. Rural farmers and urban officials have worked together with such diverse politicians as Mo Udall and Barry Goldwater to establish the CAP and overcome the problems it has faced.

Governor Fife Symington is to be commended for continuing in this fine and important tradition of bringing together diverse interests on behalf of the CAP. The collective knowledge, talents, and experience of the members of the committee produced an excellent report, and, what I believe, are sound recommendations to ensure that the CAP remains financially stable while fulfilling its many goals and purposes.

In addition to fulfilling a nearly 75-year-old dream of supplying vast regions of Arizona with Colorado River water while reducing our State's reliance on ground water, the Central Arizona Project has the ability to play an important role in many pressing water-related problems in the State. Currently, the unresolved Indian water rights claims have created a great deal of uncertainty over the continued use of water by non-Indian users. As an active partner with financial obligations to these claims, the CAP presents Arizona and the Federal Government with a variety

of options to settle these long-standing disputes. The project is also authorized for environmental purposes, and the Governor's Advisory Committee has recommended that the State and the CAWCD aggressively study such a mission for the CAP.

Today, the CAP is presented with some very real problems. While divergent interests with differences of opinions on how to solve these problems do exist within our community, we are all committed to seeing the Central Arizona Project used to its full potential in Arizona. The people of Arizona have successfully worked together to confront challenges to the CAP in the past, and I have complete faith that they will continue to do so now, and in the future.

Thank you again, Mr. Chairman.

Mr. MILLER. That is how it starts. Next thing you know we will be turning the valves on the pipes. It is a great honor to be chairman. You know, I sit here being a swing vote on my committee on most issues, then I have to go hat in hand to the Appropriations Committee and see if I can find any money to carry out my dreams. It is a wonderful honor.

Mr. Kyl, welcome to the committee this morning.

**STATEMENT OF HON. JON KYL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. KYL. Thank you, Mr. Chairman. I associate myself with the remarks of my colleagues in welcoming you to this hearing. I associate myself with Bob Stump's comments as well.

First of all, I think it never hurts to remind ourselves—I know you are fully aware of this, Mr. Chairman—that the Central Arizona Project is not a typical Reclamation project. Its purpose is to realize Arizona's legal share of the Colorado River. I think that has always counted for something, both in the deliberations in Washington with your support, and certainly for those of us in Arizona.

And as one of the participants in the 1980 Groundwater Act deliberations with then-Governor Bruce Babbitt who led those negotiations, as a condition to continued support from the Federal Government, we here in Arizona had to come together with all of the diverse interests always represented in water disputes. Through the Governor's leadership and a lot of goodwill and compromise on the part of a lot of people, we did that because the purpose of ensuring our future by guaranteeing any supply of groundwater for the future was far too important. It was an interest that overrode any of the individual interests of the parties involved.

It is that spirit that, as Ed just pointed out, has characterized the willingness of Arizonans, each time a problem has arisen with the Arizona project, to get together and resolve it even in the face of great difficulty. I think you have seen that with the Governor's task force, the work of the CAWCD, and I think I can commit that same effort on the part of Arizonans to resolve problems that may arise in the future as well as questions that you have raised, and appropriately so.

It is a spirit that simply reflects our need to preserve our future. We recognize that as representatives of government, too, that not only do we have an interest in representing—a need to represent the interests of Arizonans—but also to ensure the United States' interests are represented, because of course it is a United States project.

We have an obligation to ensure that the project proceeds in accordance with its original intent, mindful of changes and the evolution of the project. Today, Indian water settlements, environ-

mental opportunities, agricultural interests, municipal requirements, all of these will be represented and heard today.

But the bottom line is, Arizonans remain committed to making this work, and you can be assured of our continued willingness to work with you in the months and years to come to deal with all of these issues to ensure the success of the project both for Arizona and for the United States of America.

Thank you again, Mr. Chairman.

Mr. MILLER. Thank you.

Mr. Coppersmith.

STATEMENT OF HON. SAM COPPERSMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. COPPERSMITH. Thank you, Mr. Chairman. I don't want it to be my opening statement that causes you to miss your plane. I will ask unanimous consent that my statement be entered into the record.

I just wish to note that this is another step in a long process. In this State we have a strong sense of history and we honor those that had the wisdom, persistence, and strength to see the need for, and helped to create, the Central Arizona Project.

We now have the opportunity to see if we can match our predecessors' records of achievement, because we need to transform this project into one that is suitable for the twenty-first century. If this were an easy task, we would have done it sooner.

Mr. Miller, thank you for coming. It is important that you see it and get this additional information. I would also like to thank my friend and colleague, Karan English, who has been a moving force for getting you here so you can see firsthand what has been accomplished and what needs to be done.

Thank you.

[Prepared statement of Mr. Coppersmith follows:]

Chairman Miller, fellow Members of Congress, and distinguished guests:

The Central Arizona Project, designed to fuel and support Arizona's growth, has become a magnet for contentious debate. Since this project was begun, Arizona has changed dramatically, as has the public's attitude toward massive public works projects. Under those circumstances, it is no real surprise, as Arizonans face paying for both the project and that water it delivers, that we find ourselves awash in controversy.

Today's hearing will provide a forum for an honest and open discussion of Arizona's obligation and ability to repay its share of CAP costs and of the use of the water delivered by the CAP. We should not use today's session to lay blame, to point fingers, or to cast aspersions. Instead, we should gather facts and information to help us craft a repayment plan that will allow Arizona to meet its obligations.

We all know that solving the problems that lie ahead will not be easy or quick. We must balance and weigh myriad interests. We need to recognize the concerns and needs of our present and future urban and rural population, both in their capacity as water consumers and as taxpayers. We also much recognize and deal with a number of legitimate environmental issues. The needs and rights of tribal water claims are also at stake.

A great deal of work by many people has gone into trying to solve these problems, and I'm sure even more work lies ahead. At this point, I think we need to be guided by Mo Udall's example. Mo taught us that patience, humor and a willingness to compromise, when applied by people of good will, could find solutions where none seemed possible.

I want to thank my colleague and friend, Congresswoman Karan English, for causing this hearing to occur and for allowing me this chance to participate. I also want to thank Chairman Miller for taking the time to travel to Arizona and to make this important hearing possible.

The CAP was built to provide our farmers and cities with an inexpensive and environmentally sound alternative to pumped groundwater. Because the project cost four times more than the initial estimates, the cost of delivering Colorado River water to Arizona fields has become almost prohibitively high, driving many farmers to other sources of water or, occasionally, into bankruptcy. Although agriculture no longer plays a dominant role in our state's economy, low CAP water use for field irrigation threatens Arizona's ability to utilize its Colorado River entitlement, opening the way to suggestions that Arizona give up a portion of its unused allocation.

Acting on suggestions from the Governor's CAP Advisory Committee, the Central Arizona Water Conservation District (CAWCD), which operates the CAP, renegotiated the farmers' payment schedule, significantly reducing the water rate charged per acre/foot. Unfortunately, the subsidized price is almost guaranteed to raise the rates municipal users pay for water, and still does not guarantee that Arizona will use its full allocation of Colorado River water or that groundwater use will decline.

Finally, as deliberations over the future of the CAP and Arizona's long-term water supply continue, I would like to see some greater consideration given to the Advisory Committee's suggestions concerning improving the environmental aspects of the CAP. I am pleased that CAWCD adopted an Environmental Enhancement Plan, but we have considerably more work to do. The CAWCD and the Department of Water Resources need to address the many environmental questions raised by the CAP as part of this process.

In this state, we often celebrate the wisdom, persistence, and strength of the leaders who saw the need for and who helped to create the Central Arizona Project. We now have our chance to equal their record of achievement through the transformation of the CAP into a project suitable for the twenty-first century.

Mr. MILLER. Mr. Stump.

**STATEMENT OF HON. BOB STUMP, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. STUMP. Thank you, Mr. Chairman. Let me also welcome you to Arizona. I appreciate the time you have given to be with us here.

Unfortunately, all of our delegation couldn't be here today. Senators McCain and DeConcini and Congressman Kolbe are out of the country on official business, but they asked that I extend their appreciation to you for being at the hearing.

The partnership between Arizona and the Federal Government and the Central Arizona Project spans decades of authorization, planning, engineering, construction, and finally, the beginning of water delivery.

Arizona has consistently recognized its responsibilities in addressing water use among competing interests, as well as its obligations as a partner in the Central Arizona Project.

No project of the size or importance of the Central Arizona Project is immune from problems and questions along the path to completion. However, having been involved in water issues in this State for almost four decades, I am proud that Arizona's diverse interests have historically worked together to respond to our problems, and needless to say, this cooperation is not always an easy task.

Today I am confident that you will hear firsthand how the diverse water interests in Arizona—subcontractors, including the State, agriculture, municipal, industrial, and private water companies—have once again come together to confirm that Arizona is prepared to meet its financial obligations to the Federal Government as well as continue its responsibilities in meeting the water needs of a growing State.

That cooperation is evidenced by the support that each of those interests has given to the financial restructuring plan recently adopted by the CAWCD Board of Directors.

I would like to commend the Governor and all of those on his Advisory Committee for their work in addressing some very complex and critical issues. Also to be highly commended is the Central Arizona Water Conservation District for their continued diligence to ensure the completion of the CAP and the fulfillment of our obligations to the Federal Government.

Mr. Chairman, once again we appreciate very much your coming out and giving us your time. Thank you.

Mr. MILLER. Thank you, very much.

Our first panel will be made up of Mr. James Duffus, the Director of Natural Resources Management Issues for the U.S. General Accounting Office. He will be accompanied by Mr. Jim Hampton and Mr. Leo Ganster, Acting Director of Natural Resources Management Issues. Mr. Hampton is Evaluator-In-Charge of the General Accounting Office. And Mr. Robert W. Johnson is Assistant Regional Director, Lower Colorado Region, Bureau of Reclamation.

Mr. STUMP. Mr. Chairman, my apologies for interrupting; Senator DeConcini asked I give you a statement to be included in the record.

Mr. MILLER. We would be happy to do that. We talked with Senator DeConcini's office and would be happy to include his statement.

[Prepared statement of Senator DeConcini follows:]

Sen. DeLozini

STATEMENT
HEARING ON THE CENTRAL ARIZONA PROJECT
HOUSE COMMITTEE ON NATURAL RESOURCES
DECEMBER 10, 1993

Good morning. I want to begin by thanking Chairman Miller for his graciousness in allowing me to enter a statement into the record for this hearing. I am sorry I could not be here in person to deliver it and have the opportunity to hear today's testimony first-hand, but, as Chairman of the Senate Intelligence Committee, I have a long-standing commitment to travel to the Middle East. I want there to be no mistake, however, about how important I feel the Central Arizona Project (CAP) is to Arizona. The CAP is the product of many years of hard work by a great many individuals in both the Republican and Democratic parties, and it is an extremely critical resource for the future of the State of Arizona.

I know Chairman Miller has always had a great deal of interest in the CAP and has requested the General Accounting Office (GAO) to look into its future financial solvency. I welcome this chance for Arizona to voice its support and need for the CAP. In the seventeen years I have spent working on CAP issues, I have never seen Arizona water users more unified in their support of the CAP. There are a few dissenting opinions, but those represent a minority in the state. Such unity has given me great confidence that the difficulties faced by the CAP are surmountable and will be settled to the great benefit of the State of Arizona.

I would like to give special recognition and credit to Governor Fife Symington. His leadership on this issue has been outstanding and the remarkable unity of Arizona water users is due in large part to his efforts. The Governor's CAP Advisory Committee, which he appointed and co-chaired with Mark DeMichele, has presented a balanced proposal as to the future of the CAP. Anyone who has dealt with the CAP for any length of time knows that the Project has been studied and restudied with no concrete conclusions for many years. But the report issued by the Governor's Advisory Committee is a perceptive analysis of the CAP's present situation which at once recommends solutions for some of the CAP's immediate problems and also provides sound long-term answers to the Project's financial difficulties. It is important to point out that the proposal does so without adding a burden to the taxpayer--which I know is a great concern to my friend from California--and at the same time it is environmentally responsive. I know Chairman Miller is familiar with the report--the Governor and Rita Pearson, Director of Water Resources, presented the Advisory Committee findings and recommendations to the delegation, the House Natural Resources Committee and the Department of the Interior when the report was finalized.

I understand that the GAO is still engaged in a preliminary investigation in response to Chairman Miller's questions. At the time of the Chairman's letter, I also sent a request that the agency look into some of the beneficial aspects of the CAP. I believe there are many--not just for Arizona, but for the Federal government as well. I think it important that any consideration of the CAP include the positive aspects of the project, such as the potential for the Federal government to settle outstanding Indian water rights claims and to fulfill the mandates of Arizona's precedent-setting groundwater management code. I understand that the preliminary investigation of my request has not yet been completed. Nonetheless, I still think that any fair assessment of the CAP cannot be quantified in terms of financial expenditures, and I hope that the GAO has taken that into account.

Mr. Chairman, it is important to point out that the major goal of the CAP is an environmental one: reducing Arizona's reliance on nonrenewable groundwater supplies by using renewable Colorado River water. If we fail to work together to ensure the viability of the project, this overriding environmental objective will not be met.

I think I speak for the majority of Arizonan's when I thank Chairman Miller for having this hearing to define the problems faced by the CAP. However, I must point out that we in Arizona are determined to resolve these issues. The amount of work and hard decisions made by the Governor's Advisory Committee demonstrate that we have not only identified those problems but are ready to make the tough choices necessary in order to maintain the viability of the CAP. We know that to maintain the future financial viability of the CAP and meet the criticism of its detractors, Arizona must pull together and agree on a restructuring of the CAP debt that includes all water users. I believe we have taken great steps toward accomplishing this task.

Secretary Babbitt declared the Project substantially complete on October 1, 1993, thereby triggering repayment of the CAP to the Federal government in January 1994. The Central Arizona Water Conservation District (CAWCD) is committed to meeting its repayment obligation. If Chairman Miller is concerned about Arizona's commitment to making the CAP work, without any additional burden to the taxpayers, I hope he comes away from this hearing assured that Arizona is well on its way to doing whatever it takes to maintain the future security of the CAP.

Mr. MILLER. Welcome. We look forward to your testimony. And obviously we will include your full testimony in the record. You may proceed in the manner in which you are most comfortable. Jim, we will begin with you.

PANEL CONSISTING OF JAMES DUFFUS III, DIRECTOR, NATURAL RESOURCES MANAGEMENT ISSUES, RESOURCES, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JIM HAMPTON, EVALUATOR-IN-CHARGE, U.S. GENERAL ACCOUNTING OFFICE, AND LEO GANSTER, ASSISTANT DIRECTOR, NATURAL RESOURCES MANAGEMENT ISSUES, U.S. GENERAL ACCOUNTING OFFICE; AND ROBERT W. JOHNSON, ASSISTANT REGIONAL DIRECTOR, LOWER COLORADO REGION, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

STATEMENT OF JAMES DUFFUS III

Mr. DUFFUS. Thank you, Mr. Chairman. We are pleased to be here today to discuss our preliminary observations on some of the issues you asked us to review concerning the Department of the Interior's Central Arizona Project or the CAP.

My testimony focuses on the Federal Government's share to construct CAP and the Central Arizona Water Conservation District's abilities to repay its share of construction costs.

Concerning the government's share of construction costs, the Federal share of CAP's estimated \$4.7 billion construction costs could increase from \$1.7 billion to over \$2.8 billion, depending on how three matters now under review by the Bureau are resolved.

Concerning the District's ability to repay its share of construction costs, it appears in the short term, the District will be able to repay these costs and pay its annual operation and maintenance expenses. However, in doing so, the District will substantially reduce its financial reserve fund.

In the long term, several uncertainties could substantially affect both the District's ability to repay construction costs as well as its ability to pay annual O&M expenses.

The Federal share of CAP's costs could increase to over \$2.8 billion for three reasons.

The first involves a contract repayment dispute that could add \$400 million to federal costs. According to the Bureau, the District's reimbursable cost ceiling in the December 1988 master repayment contract is \$2 billion. However, the District believes that an exhibit to the contract pertaining to the delivery of CAP water to the Gila Indian tribe reduces the District's repayment obligation to \$1.8 billion, or \$200 million less.

The other \$200 million relates to the Bureau's estimate that the District's repayment obligation will be \$2.2 billion by the time CAP is completed in 1999, or \$200 million more than the ceiling in the current master repayment contract. The Bureau contends that the repayment ceiling can be raised with the District's agreement, but the District has suggested that it may not agree to a ceiling increase.

The second reason the Federal cost could increase is that water allocated for future Indian water rights and environmental uses

could add another \$585 million to Federal costs. To date nearly one-third of CAP's anticipated capacity as well as \$980 million in nonreimbursable CAP construction costs have been allocated to settle Indian tribes' water-rights claims.

The Secretary of the Interior has reserved 200,000 additional acre-feet of CAP water for future Federal use, including Indian water-rights claims, and is now in the process of negotiating settlements. If these six settlements follow the pattern of past settlements, the Federal Government could assume an additional \$435 million of CAP construction costs.

In addition, 50,000 to 150,000 acre-feet of water may be allocated for fish and wildlife enhancement. Construction costs associated with this allocation would range from \$50 million to \$150 million. These costs would be borne by the Federal Government.

The third reason Federal costs could increase relates to possible defaults on water distribution system loans that could add another \$157 million to Federal costs for CAP. These loans are between the Federal Government and the individual irrigation districts.

Turning now to the District's ability to repay its share of CAP costs, both the Bureau and the District are confident that the District can repay its share. However, our analysis of the District's financial plan showed that, for the 1994 to 1999 period, projected revenues from power and water sales and interest income from investments of the reserve fund will not provide sufficient funding for the District to repay its debt and to pay for annual O&M expenses.

As a result, the District may have to use some of its reserve funds to meet expenses, which could reduce the fund from \$160 million to about \$58 to \$75 million by 1999.

Over the long term, several uncertainties could substantially affect the District's ability to repay. For example, the District has not analyzed its ability to repay the \$2 billion to \$2.2 billion the Bureau believes the District should pay.

Another uncertainty relates to future revenues the District expects to generate from power sales. The District plans to use about \$40 million in revenues from three contracts for the sale of power from the Navajo Generating Station as a major source of funds for repayment. The contracts, two of which exist, and one of which is being negotiated, would expire in 2011. It is not certain the same amount of revenues can be generated after the contracts expire. In 2011, the land lease and coal contract for the Navajo Generating Station will also expire. Whether the lease and contract can be extended and the power contracts renewed at terms equally favorable are unknown. The District's financial plan assumes that power revenues will stay the same throughout the 50-year repayment period.

In addition, the Navajo Generating Station could be inoperable or inefficient to operate in 25 years, according to Interior's Inspector General, unless it is rehabilitated or replaced. However, the District's financial projections do not address the issue of power plant rehabilitation or replacement.

A third uncertainty relates to recovery of the District's fixed O&M expenses, estimated to be \$30 million for 1994. M&I and Indian water users scheduled to buy CAP water in 1994 will pay \$8 million, but who will pay the remaining \$22 million in O&M expenses is uncertain.

A major factor contributing to the uncertainty is the "take-or-pay" provision of CAP contracts with non-Indian irrigation districts. These contracts require the districts to pay the fixed O&M expenses allocated to all water not delivered to M&I and Indian customers, whether or not the districts use the water. However, the irrigation districts have scheduled only minimal deliveries for CAP water in 1994, and several districts have suggested they will be forced into bankruptcy if take-or-pay is enforced.

If the District does not recover its annual O&M expenses through water sales and other sources, then the difference must be covered through payment from its financial reserve fund. The long-term payment of O&M expenses from the reserve fund will eventually deplete the fund and could adversely affect the District's ability to repay its Federal obligation.

The final uncertainty that could impact the District's ability to pay its CAP costs relates to water sales to non-Indian agriculture users. Having non-Indian irrigation districts buy CAP water is advantageous to the District because construction costs allocated to agricultural water supply are repaid to the Federal Government without interest. Therefore, the more agricultural water delivered, the less interest the District has to pay.

In order to increase the use of CAP water by non-Indian irrigation districts, the District has proposed lowering the price by as much as \$44 per acre-foot to increase non-Indian agriculture water use. The District believes it can change water pricing unilaterally, but the Bureau believes its approval is necessary.

That concludes my summary, Mr. Chairman, and I would be happy to respond to any questions you or other Members may have.

Mr. MILLER. Thank you.

[Prepared statement of Mr. Duffus follows.]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Oversight and Investigations,
Committee on Natural Resources, House of Representatives

For Release on Delivery
Expected at
9:30 a.m., MST
Friday
December 10, 1993

BUREAU OF
RECLAMATION

Information on the Federal
Financial Commitment and
Repayment Status of the
Central Arizona Project

James Duffus III, Director,
Natural Resources Management Issues,
Resources, Community, and Economic
Development Division



GAO/T-RCED-94-92

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our ongoing review of the Department of the Interior's Central Arizona Project (CAP). My comments today, Mr. Chairman, reflect our preliminary observations on some of the issues you asked us to examine. Earlier this year, you requested that we review various issues relating to CAP, including: (1) the total financial commitment of the federal government to construct CAP and (2) the Central Arizona Water Conservation District's (the District) ability to fulfill its obligation to repay allocated project costs.¹ In addition, Senator Dennis DeConcini asked us to look into the benefits of CAP as well as other issues.

In summary, we have found the following:

- CAP's total construction cost is expected to be \$4.7 billion by the time CAP is completed, currently estimated to be in 1999. According to Interior's Bureau of Reclamation, the estimated federal share of these costs is \$1.7 billion.

The federal share could increase, however, to over \$2.8 billion, depending primarily on three matters now under review by the Bureau: (1) how a dispute over the maximum amount that the District is expected to repay is resolved; (2) how future increases in water allocations for Indian water-rights settlements and environmental purposes are

¹The Central Arizona Water Conservation District is a multi-county water conservation and public improvement district of the State of Arizona. It is the single entity responsible for repaying reimbursable CAP costs to the federal government. It collects revenue through a local tax and through water and power sales. The District is authorized to operate CAP.

determined; and (3) whether non-Indian farmers default on water-distribution system loans.

- On the basis of information provided by the Bureau and the District, it appears that the District will be able to repay its allocated construction cost obligation and cover its annual operation and maintenance (O&M) expenses for the 1994-99 period. However, in doing so, the District will substantially reduce its financial reserve fund.

In the long term, several uncertainties could substantially affect the District's ability to meet its repayment obligation and O&M expenses, namely, whether (1) the District has underestimated its reimbursable construction costs, (2) anticipated revenues from power sales materialize, (3) annual fixed O&M expenses can be recovered, and (4) water sales to non-Indian farmers meet expectations.

BACKGROUND

CAP was authorized under provisions of the Colorado River Basin Project Act of 1968. The Bureau started construction in 1972, and estimates are that the project will be completed in 1999. CAP includes construction of a 336-mile aqueduct/pumping system and the New Waddell Dam and modification of the Roosevelt Dam. Power for CAP's 14 pumping plants is provided by the Navajo Generating Station, a coal-fired power plant that is partially owned by the federal government.

CAP is designed to pump as much as 2.2 million acre-feet of water annually from the Colorado River on Arizona's western border

and transport it as far south and east as Tucson.² According to the Bureau, the expected annual capacity is 1.5 million acre-feet. CAP provides the residents of Arizona with various benefits, including: flood control, fish and wildlife enhancement, recreation, commercial power, groundwater conservation, and water supply. The water supply is used for both Indian and non-Indian agricultural irrigation and for municipal and industrial (M&I) purposes. The District estimates that the project will have pumped about 635,000 acre-feet of water in 1993 and will pump about 750,000 acre-feet in 1994.

The federal government has financed most of CAP's construction and has spent over \$3 billion as of December 1993. As each construction phase is substantially completed, it is turned over to the District, which operates CAP and repays reimbursable costs to the federal government. Some reimbursable costs such as M&I water supply and commercial power are interest bearing. Reimbursable costs for water supply for non-Indian irrigation are noninterest bearing. Construction costs allocated to such purposes as fish and wildlife enhancement and flood control are not reimbursable.

The District's repayment responsibilities are included in a master repayment contract with the Secretary of the Interior. The original contract, which was signed in December 1972 as well as a new contract signed in December 1988 requires the District to repay the costs associated with each construction phase within a 50-year period. On September 30, 1993, the Secretary declared the first phase of CAP--the aqueduct and power system--to be substantially complete. Repayment will begin in January 1994.

In the late 1960s, the Bureau estimated that the project would be completed in about 7 years and would cost about \$932 million,

²An acre-foot is the volume of water necessary to cover 1 acre to a depth of 1 foot--about 326,000 gallons.

including costs for interest during construction and water distribution systems for Indian and non-Indian farmers. The Bureau currently estimates that CAP's construction will be completed in 1999 and that the project will cost about \$4.7 billion. According to Bureau officials, CAP's cost increase is largely due to design changes brought about by a variety of reasons, including cultural and environmental concerns, and to interest and inflation during the extended construction period.

The federal government, as the trustee for the Indian tribes, has an obligation to ensure that Indian water-rights claims are settled in the tribes' best interest. While it is not a stated goal or purpose in CAP's authorizing legislation, CAP has become a major source of water in the settlement of these claims. These settlements, achieved in part through reallocations of CAP water, decrease the reimbursable costs that the District must pay to the federal government. The settlements are negotiated by Interior and confirmed by federal legislation.

The District has about \$160 million in a financial reserve fund, financed mainly from property tax assessments and interest on investments. The District expects to use the fund to pay reimbursable construction costs and O&M expenses.

THE FEDERAL SHARE OF CAP'S COSTS
COULD INCREASE SUBSTANTIALLY

The federal share of CAP's costs could increase from the current \$1.7 billion to over \$2.8 billion depending on how three matters now under review by the Bureau are resolved.

Contract Repayment Dispute Could
Add \$400 Million to Federal Costs

The first matter under review involves a contract repayment dispute that could add \$400 million to federal costs. According to the Bureau, the District's reimbursable cost ceiling in the December 1988 master repayment contract is \$2 billion. However, the District believes that an exhibit to the contract pertaining to delivery of CAP water to the Gila Indian Tribe reduces the District's repayment obligation to \$1.8 billion--or \$200 million less. If the ceiling is \$1.8 billion, the federal government has already spent about \$150 million more in reimbursable costs than it can legally recover. If the ceiling is \$2 billion, it could be reached in 1994, on the basis of current construction plans.

The other \$200 million relates to the payment of future construction costs. According to the Bureau's September 1993 cost allocation, the District's repayment obligation will be \$2.2 billion by the time CAP is completed in 1999, or \$200 million more than the ceiling in the December 1988 master repayment contract. The Bureau contends that the repayment ceiling can be raised with the District's agreement, but the District has suggested that it may not agree to a ceiling increase.

The Bureau and the District had not resolved the matter as of December 1, 1993. If they cannot reach agreement to increase the District's ceiling to \$2.2 billion, the Bureau could (1) halt construction prior to CAP's completion; (2) lower the District's reimbursable obligation by reallocating CAP's costs to nonreimbursable purposes, such as settling of Indian water-rights claims; or (3) seek congressional approval to grant relief to the District for some reimbursable costs.

Water Allocations for Future Indian
Water-Rights and Environmental Settlements
Could Add \$585 Million to Federal Costs

The second matter under review involves water allocated for future Indian water-rights and environmental settlements that could add another \$585 million to federal costs. In 1983, the Secretary of the Interior allocated 310,000 acre-feet of CAP water to 12 Indian tribes in order to settle some Indian water-rights claims. Between 1978 and 1992, an additional 140,000 acre-feet of CAP water was allocated to six tribes. Thus, nearly one-third of CAP's anticipated maximum annual water capacity as well as \$980 million in nonreimbursable CAP construction costs has been allocated to settle Indian Tribes' water-rights claims. The federal government also assumed responsibility for substantial O&M expenses in one of these settlements.

Six additional Indian water-rights claims could be settled with CAP water. The Secretary has reserved 200,000 acre-feet of CAP water for future federal use, including Indian water-rights claims, and is now in the process of negotiating settlements. If these six settlements follow the pattern of past settlements, the federal government could assume an additional \$435 million of CAP construction costs.

In addition, CAP legislation included fish and wildlife enhancement as an authorized project purpose. A committee commissioned by the governor of Arizona recommended allocating between 50,000 acre-feet and 150,000 acre feet of CAP water for environmental enhancement. We estimate that construction costs associated with this allocation would range between \$50 million to \$150 million. These costs will be categorized as nonreimbursable and will be borne by the federal government.

Defaults on Water Distribution
System Loans Could Add
\$157 Million to Federal Costs

The third matter under review involves possible defaults on water distribution system loans that could add \$157 million to federal costs. The federal government made loans to non-Indian irrigation districts for CAP irrigation distribution systems for about \$200 million. These loans are between the federal government and the individual irrigation districts--they do not involve the Central Arizona Water Conservation District. Some irrigation districts have indicated that repayment of the loans is jeopardized because farm incomes are too low and CAP water is too expensive. As of November 1993, one irrigation district had defaulted on its loan of \$17.4 million, and two other irrigation districts were in danger of defaulting on loans totalling \$140 million.

THE DISTRICT'S ABILITY TO MEET ITS
LONG-TERM REPAYMENT OBLIGATION IS UNCERTAIN

Both the Bureau and the District are confident that the District can meet its repayment obligation. However, we analyzed the District's financial plan for CAP and found that, for the 1994-99 period, projected revenue from power and water sales and interest income from investments of the reserve fund will not provide sufficient funding for the District to meet its federal repayment obligation and to pay for annual O&M expenses. As a result, the District may have to use some of its reserve funds to meet expenses. The reserve fund could be reduced from about \$160 million to about \$58 million to \$75 million by 1999, depending on the level of the District's investment income.

Our work to date also has shown that, over the long term, several uncertainties could substantially affect the District's ability to repay.

The District's Repayment Obligation
May Be Understated

As we mentioned earlier, the District contends that its repayment obligation is \$1.8 billion and has based its repayment projections on this amount. The Bureau, however, contends that the District owes \$2 billion and that the repayment ceiling can be raised to \$2.2 billion with the District's agreement. According to District officials, the District has not analyzed its ability to repay either of these amounts. -

Projected Power Revenues
May Not Materialize

Another uncertainty relates to future revenues the District expects to generate from power sales. The District plans to use revenues from three contracts for the sale of power from the Navajo Generating Station as a major source of revenue to meet its repayment obligation. Two of the contracts are between the District and the Salt River Project Agricultural Improvement and Power District (Salt River Project). The contracts provide revenue of about \$20 million a year, which will be used solely to retire debt for bonds used to finance the District's share to construct the New Waddell Dam. The contracts will expire in 2011.

The District and Salt River Project are currently negotiating a third contract for the District's remaining Navajo power that exceeds CAP's operating needs. The Bureau is withholding approval of this contract, pending resolution of several repayment matters. If approved, this contract is expected to provide another \$20 million each year to help the District meet its repayment obligation. The contract, as proposed, will also expire in 2011.

Although the contracts for the sale of Navajo power provide significant revenues, it is not certain that the same amount of

revenues can be generated after the contracts expire in 2011. In 2011, the land lease and coal contract for the Navajo Generating Station will also expire. It is unknown whether the land lease and coal contract with the Navajo Tribe can be extended and the power contracts renewed with the Salt River Project at terms equally favorable. The District's financial plan assumes that power revenues will continue at the same level throughout the 50-year repayment period.

Finally, the Department of the Interior's Office of Inspector General reported that the Navajo Generating Station could be inoperable or inefficient to operate in about 25 years unless it is rehabilitated or replaced.³ However, the District has not addressed the issue of its share of power plant rehabilitation or replacement costs in its financial projections.

Uncertainty Over Recovering Fixed O&M Expenses

A third uncertainty relates to recovery of the District's fixed O&M expenses estimated to be \$30 million for 1994.⁴ According to the Bureau, M&I and Indian water users scheduled to buy CAP water in 1994 will pay about \$8 million, but who will pay the remaining \$22 million is uncertain.

A major factor contributing to the uncertainty is the "take-or-pay" provision of CAP contracts with non-Indian irrigation districts. These contracts require the districts to pay the fixed O&M expense allocated to all water not delivered to M&I and Indian customers, whether or not the districts use the water. However,

³Cost Allocation and Repayment, Central Arizona Project, Bureau of Reclamation; U.S. Department of the Interior Office of Inspector General, Report No. 92-I-1151, August 1992.

⁴Fixed O&M expenses are those incurred regardless of whether water is delivered.

because of declining farm incomes and the high price of CAP water compared with groundwater, the irrigation districts have not scheduled deliveries for any CAP water during 1994, and several districts have suggested they will be forced into bankruptcy if "take-or-pay" is enforced.

Another uncertainty is the amount of fixed O&M expenses to be paid by the federal government. The District billed the Bureau \$12.6 million for fixed O&M expenses for a 15-month period in 1993 and 1994. These costs were associated with an Indian water-rights claim settlement (Fort McDowell Indian Community) and water held for future Indian water-rights claims. However, the Bureau has not accepted these costs. The matter is still unresolved.

If the District does not recover its annual O&M expenses through water sales and other revenue sources, then the difference must be covered through payment from its financial reserve fund. Since the fund is to be used to both repay construction costs and pay annual O&M expenses, the long-term payment of O&M expenses from the reserve fund will eventually deplete the fund and could adversely affect the District's ability to repay its federal obligation.

Water Sales to Non-Indian Irrigation Districts Are Uncertain

The final uncertainty relates to water sales to non-Indian irrigation districts. Since the non-Indian irrigation districts have not scheduled deliveries of CAP water for 1994, the District's ability to repay its construction costs could be adversely affected. Having non-Indian irrigation districts buy CAP water is advantageous to the District because construction costs allocated to agricultural water supply are repaid to the federal government without interest. Therefore, the more agricultural water that is delivered, the less interest the District has to pay.

In order to increase the use of CAP water by non-Indian irrigation districts, the District proposed in October 1993 to lower the price of CAP water from about \$61 per acre-foot to as low as \$17 per acre-foot. The District's goal is to stimulate non-Indian agriculture's use to about 400,000 acre-feet of water per year. Under this proposal, the District would save about \$13 million annually in interest expenses, most of which would be used to offset the reduced revenues from the non-Indian agriculture water sales. While the District believes it can change water pricing unilaterally, the Bureau has indicated that its approval is necessary if the change in pricing affects repayment.

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In summary, Mr. Chairman, CAP is almost complete and substantial federal funds have already been spent. The significant uncertainties to be resolved are how the costs will ultimately be allocated between the federal government and the District, and whether the District will be able to repay its allocated costs.

This concludes my statement. We will be happy to answer any questions that you or other Members of the Subcommittee may have.

(140882)

STATEMENT OF ROBERT W. JOHNSON

Mr. MILLER. Mr. Johnson, welcome to the committee.

Mr. JOHNSON. Thank you, it is a pleasure to be here. I will also submit my testimony for the record, and I will try to summarize it as quickly as I can.

As I am sure you are aware, the financial difficulties of the central Arizona irrigation water users have created a unique set of problems for the Central Arizona Project, and we appreciate those problems that have been created, and appreciate the difficulty of resolving those issues, and we are especially appreciative of the efforts of Governor Symington's Advisory Committee as well as CAWCD in developing proposals to resolve those issues.

Having had some firsthand experience with CAWCD about a year ago in developing a restructuring proposal, we appreciate the difficulty of finding an equitable resolution and appreciate the efforts of the State and CAWCD in sorting out a proposal which we are interested in working with, and working with CAWCD on further.

We are also appreciative of CAWCD's support over the last year in our efforts to initiate repayment. While we have had many complex and contentious issues associated with this effort, CAWCD was willing to work diligently with us to help resolve those issues.

This effort did result in our declaring the aqueduct system substantially complete and initiating repayment in January of 1994.

I believe our working relationship with CAWCD continues to be a good working relationship. We would also like to commend the State and CAWCD in their proposal for reemphasizing their commitment to Indian water rights settlements in Arizona.

The Department and the Bureau are also committed to prompt resolution of those issues and support the recommendation that that be a priority. We estimate that there could be a need for as much as 200,000 acre-feet of additional CAP water that could be used for this purpose.

The recommendation of the Advisory Committee that Arizona participate in groundwater recharge programs with the other lower basin states of Nevada and California will also help provide a partial resolution of CAP financial issues.

In addition, such a program will provide another mechanism to help meet the water supply needs of the lower basin. We are committed to working with Arizona and the other two basin States to facilitate implementation of that recommendation.

Another helpful area in the Governor's Advisory Committee recommendation is in the environmental area where they recommended that 50,000 to 150,000 acre-feet of CAP water be evaluated for possible allocation to fish and wildlife enhancement purposes.

In addition, the committee recommended a State environmental trust fund be established for the maintenance, enhancement, and restoration of aquatic, wetland, and riparian habitats. We are currently working with the environmental groups represented on the Advisory Committee to better define the amount of water needed for these purposes.

We see this recommendation as providing a framework for addressing environmental needs and ways that the Central Arizona Project can help address those needs.

Notwithstanding those areas where we agree with the Arizona proposals, there are a number of areas where we believe the proposals fall short or are silent on important points that must be addressed in any complete resolution of issues.

In this regard, our overriding concern is in protecting the financial interests of the United States. We believe that the United States has lived up to its end of the bargain on CAP. By and large, the project is complete and capable of delivering Arizona's remaining Colorado River apportionment for use in central and southern Arizona, a dream of several generations of Arizonans.

That dream, however, has been achieved largely at the Federal taxpayers' expense. Based on current estimates, the project will have a total Federal construction cost of approximately \$4 billion. Under Reclamation law and the contractual framework governing the assignment of costs and repayment of the project, our current estimates indicate that approximately \$1.5 billion will be nonreimbursable, \$2.3 billion will be repaid by CAWCD, and in the case of distribution system loans, approximately \$100 million reimbursed by individual water user entities.

While I will not go into detail, some of the terms for repayment have been questioned by the Inspector General and other auditors.

Several key issues remain to be addressed if we are to find a comprehensive solution. In this regard there are four areas of primary concern.

The first relates to the payment of operation and maintenance costs. The existing financial arrangements provide that non-Indian irrigation users will take the take-or-pay charges. This was a system that was put in place at the beginning to encourage irrigation to use more water and to provide a consistent water rate for M&I and Indian users over a period of time. It is now apparent that the take-or-pay obligation of non-Indian agriculture will not be met.

We think it is important that the failure of non-Indian agriculture to pay that O&M expense should not be pushed off on either the United States or the other Federal users of the project, particularly the Indian users of the project.

The second issue relates to the repayment obligations of the CAWCD and the magnitudes of that obligation. CAWCD maintains that the obligation is limited to \$1.8 billion under the master repayment contract, while the United States maintains the ceiling is \$2 billion. Further, current estimates indicate the total obligation, under the existing water supply and allocation assumptions, will ultimately be \$2.3 billion.

Unfortunately, absent agreement on this issue soon, Reclamation will be forced to curtail construction activities.

In addition to the adjustment to the District's repayment contract, there is also an issue that relates to the authorized appropriations ceiling. The cost of compliance with Federal laws such as the National Environmental Policy Act, Endangered Species Act, and others, has increased the cost of the project.

If all authorized future projects were to be built, we anticipate the Federal obligation will exceed the authorized appropriation

ceiling by more than 5 percent. Therefore, an adjustment in the authorized appropriations ceiling would be necessary.

The third area of concern relates to the repayment of the CAP irrigation distribution system loans. Nine loans totaling \$230 million have been made. These interest-free loans have repayment periods extending from 25 to 30 years with a present value, discounted to reflect the interest-free repayment provisions, of approximately \$80 million.

The financial difficulties faced by the CAP non-Indian agricultural districts have thrown the long-term repayment of the three largest loans, totaling \$157 million, into question.

The Governor's Advisory Committee recommended that the United States grant the irrigation district deferment requests and extend the repayment of the loans over a 50-year period. We appreciate the fact that the irrigation loans are held solely by the United States and there is no legal obligation for other Arizona entities to pay. However, these distribution system loans are a repayment issue, in addition to the issues we have with CAWCD, and the Federal Government needs to see these repayment issues resolved.

In general we think we need to take creative solutions to finding answers to these concerns. One such area where a creative opportunity exists is in the area of commercial power sales. The financial difficulties of CAP agriculture have resulted in a significant reduction in the amount of water to be delivered. As a result, project power resources that would have been used to pump irrigation water can now be made available for commercial sale.

Based on recent power contract negotiation, such power resources will generate in excess of \$20 million in additional power revenues annually. It seems only appropriate that the revenues be applied to help resolve the same issues that have been created by the failure of agriculture.

We believe there are other creative areas where we can work with Arizona to resolve these financial issues. We are willing to work with the proposals that have been forwarded by the Governor's Advisory Committee and by CAWCD, and we are anxious to negotiate and resolve these issues.

We have invited CAWCD and the State to begin negotiations as soon as possible. We are planning to do that early in January.

Mr. Chairman, that concludes my remarks. I would be glad to respond to questions.

[Prepared statement of Mr. Johnson follows.]

TESTIMONY OF
ROBERT W. JOHNSON
ASSISTANT REGIONAL DIRECTOR,
LOWER COLORADO REGION, BUREAU OF RECLAMATION
ON THE CENTRAL ARIZONA PROJECT
BEFORE THE OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON NATURAL RESOURCES

PHOENIX, ARIZONA

DECEMBER 10, 1993

Introduction

Chairman Miller, my name is Robert Johnson, and I am the Assistant Regional Director for the Bureau of Reclamation's Lower Colorado Region. It is a pleasure to be here today and offer testimony on behalf of the Bureau of Reclamation and the Department of the Interior regarding the current status of our efforts to resolve outstanding issues related to the Central Arizona Project (CAP). As I am sure you are aware, the financial difficulties of the CAP irrigation water users have created a unique set of problems which must soon be resolved if we are to have a smooth transition of the project from construction by the United States to operation and maintenance by the Central Arizona Water Conservation District (CAWCD).

After developing a draft restructuring proposal with CAWCD last year, which was rejected by most CAP water users, we are encouraged by the efforts of Governor Symington's CAP Advisory Committee and CAWCD to develop a new set of recommendations to address the issues. Having a first-hand understanding of the issues, we appreciate the difficulty of finding an equitable resolution and appreciate the efforts of the State and CAWCD in sorting out a proposal.

The CAP Advisory Committee and the CAWCD are to be commended for their proposals.

Reclamation is especially appreciative of the support of CAWCD in our efforts to initiate repayment over the past year. While there were many complex and contentious issues associated with this effort, CAWCD was willing to work diligently to resolve those issues prior to issuance of the notice of substantial completion for the CAP aqueduct on October 1, 1993. The working relationship between CAWCD and the Bureau continues to be strong.

Further, we would like to commend the State and CAWCD for their recent efforts and believe that the proposals before us provide a basis for further discussions with the United States. In particular, we believe the existing proposals are especially helpful in several areas.

We were pleased to see the Advisory Committee reaffirm the State of Arizona's commitment, and CAWCD reaffirm its commitment, to resolution of outstanding Indian water right claims. Both Reclamation and the Department of the Interior concur that resolution of these claims should be a priority. We see the CAP water supply as being an important element in resolving the claims. Previous estimates suggest that an additional annual allocation of about 200,000 acre-feet of CAP water may be needed for this purpose.

The recommendation of the Advisory Committee that Arizona participate in groundwater recharge programs with the other lower basin states of Nevada and California will also help provide a partial resolution of CAP financial issues. In addition, such a program will provide another mechanism to help meet the water supply needs of the lower basin. We are committed to working with all three lower basin states to facilitate the implementation of this recommendation.

Another helpful area is the Governor's Advisory Committee recommendation that 50,000 to 150,000 acre-feet of CAP water be evaluated for possible allocation to fish and wildlife enhancement purposes. In addition, the Committee recommended that a state environmental trust fund be established for the maintenance, enhancement and restoration of aquatic, wetland and riparian habitats. We are currently working with the environmental groups represented on the Advisory Committee and others to define better the amount of water needed for these purposes. We see this recommendation as providing a framework to address environmental needs.

The overriding concern of the Department is protecting the financial interests of the United States.

Notwithstanding those areas where we agree with the Arizona proposals, there are a number of areas where the proposals fall short or are silent on important points that must be addressed in any complete resolution of issues. In this regard, our overriding concern is in protecting the financial interests of the United States. We believe that the United States has lived up to its end of the bargain on CAP. By and large, the project is complete and capable of delivering Arizona's remaining Colorado River apportionment for use in central and southern Arizona, a dream of several generations of Arizonans.

That dream, however, has been achieved largely at the Federal

taxpayers' expense. Based on current estimates, the project would have a total construction cost of approximately \$4.0 billion. Under Reclamation Law and the contractual framework governing the assignment of costs and repayment of the project, our current estimates indicate that approximately \$1.5 billion would be nonreimbursable, \$2.3 billion would be repaid by CAWCD, and, in the case of distribution system loans, approximately \$200 million reimbursed by individual water user entities. While I will not go into detail, the terms for repayment have been questioned by the Inspector General. (See Attachment 1 - listing of Inspector General Audit Reports and Findings.)

There are four areas with significant financial implications for the United States.

Several key issues remain to be addressed if a comprehensive resolution of CAP financial issues acceptable to the Department is to be achieved. In this regard there are four areas of primary concern.

1. Federal and Indian payment of O&M costs.

The first relates to the payment of operation and maintenance (O&M) costs. The existing financial arrangements provide that the non-Indian irrigation users of the CAP pay the fixed component of O&M costs based on the proportionate amount of water available for their use, whether or not such water is actually ordered and delivered. This provision, referred to as "take or pay," was intended to encourage irrigation users to utilize CAP water in lieu of overdrafted and potentially cheaper groundwater, and to provide a uniform water rate to Indian and M&I water users as their utilization of the project increased over time. With the financial difficulties currently faced by the non-Indian irrigation users, the "take or pay" obligations of the irrigation users will not be met. This has led to recommendations by the Advisory Committee and CAWCD that Federal users (i.e., Indian and environmental) of the project pay a larger share of the fixed O&M costs than originally contemplated. While this issue is more complicated than I have time to describe here today, we will continue to encourage Arizona to find mechanisms to fund the O&M costs that do not place additional burdens on the United States or the Indian users of the project. In short, the failure of CAP agriculture should not place additional financial burdens on the United States or the Indian CAP water users.

2. Contractual repayment and authorizations ceilings of CAWCD.

The second issue relates to the repayment obligation of CAWCD and the magnitude of that obligation. CAWCD maintains the obligation is limited to \$1.8 billion under the Master Repayment Contract, while the United States maintains the ceiling is \$2.0 billion. Further, current estimates indicate the total obligation, under the existing water supply and allocation assumptions, will ultimately be \$2.3 billion. Unfortunately, absent such agreement on this issue soon, Reclamation will be forced to curtail construction activities.

In addition to the adjustment to the District's repayment contract, there is an issue that relates to the authorized appropriations ceiling. The cost of compliance with Federal laws such as the National Environmental Policy Act, the Endangered Species Act, and others, has increased the cost of the Central Arizona Project. If all authorized features of the Project were to be built, we anticipate the Federal obligation will exceed the authorized appropriation ceiling by more than five percent. Therefore an adjustment to the authorized appropriations ceiling would be necessary.

3. Payment of CAP distribution system loans.

The third area of concern relates to repayment of the CAP irrigation distribution system loans. Nine loans totaling \$230 million have been made. These interest free loans have repayment periods extending from 25 to 30 years with a present value, discounted to reflect the interest free repayment provisions, of approximately \$80 million. The financial difficulties faced by CAP non-Indian agriculture have thrown the long-term repayment of the three largest loans, totaling approximately \$157 million, into question.

The Governor's Advisory Committee recommended that the United States grant the irrigation district deferment requests by extending the repayment of loans over a 50 year period. We appreciate the fact that the irrigation loans are held solely by the United States and there is no legal obligation for other Arizona entities to pay. However, these distribution loans are another repayment issue, in addition to those with the CAWCD, that the Federal Government needs to resolve.

4. Utilization of windfall power revenues.

One area where such creative opportunities exist is in the area of commercial power sales. The financial difficulties of CAP agriculture have resulted in a significant reduction of the amount of water to be delivered. As a result, project power resources that would have been used to pump irrigation water can now be made available for commercial sale. Based on recent power contract negotiations, such power resources will generate in excess of \$20 million in additional net power revenues annually. It seems only appropriate that the revenues be applied to help resolve those same issues.

The Bureau is ready to begin negotiations.

We believe that there are other creative areas where we can work with Arizona to resolve these financial issues. We are anxious to see them resolved and have extended an invitation to CAWCD to begin negotiations. While we have significant differences, we are still hopeful that a fair and equitable resolution of issues can be achieved.

Chairman Miller, this concludes my initial statement. I will be glad to respond to questions.

Attachment # 1

AUDITS OF THE CENTRAL ARIZONA PROJECT BY OFFICE OF INSPECTOR GENERAL

1. September 1980, Review of Central Arizona Project.
2. April 1986, Audit W-WS-BOR-08-85, Review of the Status of the CAP.
3. October 1988, Audit 89-03, Timely Recovery of Irrigation Investment Cost.
4. August 1992, Audit 92-I-1151, CAP Cost Allocation.
5. February 1993, Audit 93-I-577, Deferral of Notice of Project Completion.
6. July 1993, Audit 93-I-1271, Distribution System Audit.

Mr. MILLER. Thank you very much. Thank you to both of you.

Mr. Duffus, let me see if I might begin with you. On page 4 of your statement, at the bottom there, you talk about essentially almost \$1 billion in cost—I don't know what the proper term here, if it is cost shifting or just additional cost that is open for anticipation by the Federal Government. I don't know how you want to refer to that amount. What do you call that?

Mr. DUFFUS. That would be the Federal share of the cost, going from \$1.7 billion to \$2.8 billion. It is that portion that the Federal Government will not obtain reimbursement for.

Mr. MILLER. Is that a foregone conclusion, or is that based upon some contingencies?

Mr. DUFFUS. Our numbers differ somewhat from the Bureau's and I don't have a breakdown of the differences. But as far as the \$1.7 billion is concerned, there is no contentiousness over it.

About 60 percent of this amount relates to the Indian water rights settlements that have already taken place, about \$980 million. The rest are costs that relate to repair of siphons and scrubbers at the Navajo Generating Plant, flood control and recreation.

Mr. MILLER. But what you are saying is that at this point in your review, to see the project to completion, that the Federal Government can anticipate that it is going to absorb—some of which we have already agreed to, the siphons and others—it is going to absorb another \$1 billion?

Mr. DUFFUS. Right. That was based on the things I laid out in my statement. If the contract dispute is not resolved, or depending on how it is resolved, that could add \$200 million to the Federal costs.

Another \$200 million we estimate, based on the Bureau's numbers, would be future construction costs between now and when the project is completed in 1999.

There is an estimated \$435 million for pending Indian water-rights settlements, \$150 million for fish and wildlife enhancement, and \$157 million in possible defaults on water distribution loads.

If all those things come true, then in our view, the Federal share of cap would increase to \$2.8 billion.

I want to point out, Mr. Chairman, that this is the worst case situation.

Mr. MILLER. I understand that. Is there an answer as to whether these issues would be resolved on behalf of the Federal Government's point of view or on behalf of the project's point of view?

Is there a distinction as to those two amounts, or are most of these, in your mind, still to be borne by the Federal Government?

Mr. DUFFUS. The contract dispute has not been settled. They are currently in the process of trying to resolve it. With respect to the Indian rights water settlements, if you look at what has happened in the past, there probably will be future Indian water rights settlements. Whether or not it will be in the amount that we have discussed is unknown.

Mr. MILLER. Do your figures include the issue that was raised by Mr. Johnson as to whether or not there would be default on the distribution loans?

Mr. DUFFUS. Yes, \$157 million.

Mr. MILLER. But that is still an open issue?

Mr. DUFFUS. It is an open issue. One of the water irrigation districts has already defaulted on a loan of about \$17 million and two others are in danger of defaulting with loans totaling \$140 million. That is the makeup of the \$157 million.

Mr. MILLER. Should the worst case happen there and all three remain in default, that is included in your \$1 billion cost shift?

Mr. DUFFUS. That is correct.

Mr. MILLER. What happens, Mr. Johnson, in the event that we see default on behalf of all three districts?

Mr. JOHNSON. That is a good question.

Mr. MILLER. Thank you.

Mr. JOHNSON. You would likely get into bankruptcy proceedings. The United States would likely be treated as a creditor, along with other creditors. The districts have a significant amount of private debt that is outstanding as well.

I think ultimately the United States might recover some portion of the debt, but just how much the United States would recover, I think is uncertain. It is a guess.

Mr. MILLER. You mentioned the suggestion as to the stretch-out restructuring of these loans—to extend them over a 50-year period. Has the Bureau taken that under consideration, are you looking at that, rejecting that?

Mr. JOHNSON. We have looked at that, and we have had three districts that have requested extending those loans over a longer period of time. The problem that we have had is we don't see how restructuring the Federal debt will solve the problem.

The take-or-pay obligation that the districts have in their private debt were much more onerous obligations than repayment of the Federal debt.

And without a comprehensive resolution, we couldn't see how our loan, restructuring the Federal debt, would solve the problem. So we have consistently told the districts that absent a comprehensive resolution that addresses the private debt and the take-or-pay issue, we would consider restructuring our loans.

I think that now that we have this new proposal on the table with CAWCD in essence agreeing not to pursue the take-or-pay obligation and reduce the O&M debts that the districts have, we need to take a fresh look at that, and we are doing that.

Mr. MILLER. Can you explain that a little bit? Pull that apart a little bit.

Mr. JOHNSON. One of the biggest obligations that the district had was this take-or-pay obligation for O&M that says that the districts have to pay for the water that is available for their use.

Mr. MILLER. That is a three-way agreement?

Mr. JOHNSON. Well, yes, it is. It is a three-way agreement between CAWCD, the United States, and Reclamation. And CAWCD has proposed that they would be willing to sell the water to the districts at a reduced price for the O&M deliveries, not require the districts to take or pay charges as originally contemplated. That is part of the CAWCD proposal.

And with that obligation removed and the significant reduction in the price of water that the districts will now be paying, that puts them in a better financial position, and there may be a chance that

changes in the payment schedule could in fact help make the districts more viable.

Now, there is still a big question related to the private debt, because the private debt, at least in the early years, over the next five- to ten-year period, is still much more onerous than the Federal debt.

So I think we still have a big question whether or not that restructuring will solve the problem.

Mr. MILLER. On the CAWCD's proposal, when they shift to this new arrangement from the take-or-pay provisions, there are still dollars to be made in that arrangement?

Mr. JOHNSON. That is correct, yes.

Mr. MILLER. So the suggestion is there that the District will stand in the place of the irrigation districts?

Mr. JOHNSON. That is our assumption. Now, that gets into the first issue that we talked about and that is who pays the O&M. If the irrigators aren't paying the O&M, this \$30 million fixed O&M cost, who does pay that O&M?

Now, CAWCD and the Bureau have had different interpretations on that. Their interpretation has been that all of the remaining users will equally share in paying that O&M. And that results in dividing that \$30 million fixed O&M cost over significantly reduced number of acre-feet of water, and we get O&M costs in \$70, \$80, \$90, \$100, depending on how much water is delivered, maybe even as much as \$100 per acre-foot cost using that formula.

Reclamation's position has been that the default of the irrigation districts should not place—that is, a relationship between CAWCD and the irrigation districts, the payment of O&M, and the default of those irrigation districts should not place additional O&M burdens on the United States or the Indian users of the project.

And the United States' obligation is to pay O&M as though the take-or-pay charges are being paid.

Mr. MILLER. Are there other parties or would those be the two parties—

Mr. JOHNSON. The M&I users are the other group that would end up bearing the burden of that O&M cost.

Mr. MILLER. M&I is the city contractors?

Mr. JOHNSON. Yes.

Mr. MILLER. Do you have individual company contractors—mining?

Mr. JOHNSON. There are some mines that would be M&I contractors. All the remaining users under CAWCD's formula would end up absorbing the O&M cost, that is some districts—

Mr. MILLER. So the mining contracts directly with CAWCD?

Mr. JOHNSON. They are the same three-party contracts that the M&I users have, yes.

Mr. MILLER. So what you are suggesting is that the default on the distribution systems and/or the potential default by the remaining two districts, that is simply one level of debt, and if if you were at this moment to consent to stretching those out over 50 years, and these are interest free; is that correct?

Mr. JOHNSON. That is correct.

Mr. MILLER. I don't want to put words in your mouth. What I hear you saying is you are putting the Federal Treasury, in this

case, we have taken a hit on the stretch-out over the lost opportunity on that money.

Mr. JOHNSON. Right.

Mr. MILLER. But there are other debtors that may even threaten this agreement.

Mr. JOHNSON. That is correct. I think we need to look at that carefully. The private debt holders are still a very significant portion, and again, it may not do any good for us to stretch that debt out over a longer period of time, if it looks like the irrigation districts aren't going to get relief from the private debt holders as well.

Mr. MILLER. Do you have any ability to bring private debt holders into that arrangement?

Mr. JOHNSON. I don't know if we have any ability. I think that needs to be explored.

Mr. MILLER. Legal ability. If you went into formal bankruptcy, you would all stand in the line.

Mr. JOHNSON. Right. I don't think we have any legal ability to bring them into that, no.

Mr. MILLER. The question is whether they would join those discussions.

Mr. JOHNSON. The question is whether or not you could get them to join you. The reports I have got is that that might be difficult.

Mr. MILLER. If the District under one of these additional arrangements is to stand in the place of the individual irrigation districts, you seem to raise questions—I am trying to match your testimonies up here—maybe you should be talking to one another more. In any case, you seem to suggest that that raises some questions about the overall economic soundness of the District.

Mr. DUFFUS. I don't believe it is just this situation alone. I think what we talked about in terms of O&M is that the District would have to use its reserve fund to pay O&M costs as well as its share of construction costs. It could affect its abilities to pay its share over the long term.

Mr. MILLER. You say, if the district were to pay the O&M. Is that in anticipation of what, of them being able to lay it off on the non-agricultural users, or not?

Mr. DUFFUS. If the non-Indian water irrigation districts default, then the District would end up having to pay the O&M expenses.

Mr. MILLER. If I hear Mr. Johnson correctly—we will hear from the District in a little bit—they want to divide that among the other users; is that correct, Mr. Johnson?

Mr. JOHNSON. That is correct, yes. That is part of CAWCD's interpretation—

Mr. MILLER. What is the response to that increased price by the other users?

Mr. JOHNSON. Well, I think that CAWCD has addressed that by target pricing the M&I water, and in essence for the M&I users, CAWCD proposes picking that cost up out of ad valorem taxes and not actually paying all of that O&M through water pricing.

Mr. MILLER. What do they have to do to bring about that arrangement?

Mr. JOHNSON. I think that is just a matter of CAWCD making their own internal decision about how they are going about pricing

the water when they sell it to their users. They have taxing authority.

Mr. MILLER. In order to make that up?

Mr. JOHNSON. Yes. Under their proposal, I think that is their plan, in essence, to target price the M&I water at reasonable rates, allowing it to build up over time, so that the M&I users don't have this huge increase in water costs to face immediately.

Mr. MILLER. Have you taken that into account that they could raise revenues?

Mr. DUFFUS. No, I can't believe we looked at that in the work we have done so far. I am sorry. Mr. Hampton—

Mr. MILLER. Mr. Hampton.

Mr. HAMPTON. Mr. Chairman, we have some information on raising the ad valorem taxes, but it is one of several proposals that was out there. If the District implements target pricing for M&I, they are not target pricing the water going to the Federal Government, namely, the Indians. For the Indians the Federal Government would be picking up some or all of the O&M costs. For example, under Ak-Chin settlement, all the O&M costs are being paid by the Federal Government.

The cost to the Federal Government would be significantly higher under this target pricing proposal than the O&M costs charged to M&I customers. We are talking in the range of \$60, \$70, \$80 per foot, fixed O&M only, for the Federal Government.

Mr. MILLER. When you talk about the redistribution of the O&M as a result of the default, one of the parties is in fact the Federal Government, because we stand in the same place as the tribes?

Mr. JOHNSON. That is correct.

Mr. MILLER. Would the ability to raise revenues, Mr. Duffus, would that change your view of the long-term viability of the District given the contingencies you mentioned in your report of the Navajo plant and the diminishment of reserves?

Mr. DUFFUS. Yes, I think it would.

Mr. MILLER. So they could put this on a pay-as-you-go basis conceivably. I am not asking people to make recommendations. I am just trying to pull this apart as to the options that are really in fact on the table here.

Mr. DUFFUS. Yes, to the extent they could raise revenues, it would change their financial picture.

Mr. MILLER. So theoretically, I don't know about politically, but theoretically there is a potential to provide a means by which you would not have to diminish those reserves, the reserves could remain in place for the Navajo contingency, turn of the century.

So there is another option laid out in your report, but obviously it is dependent upon whether the District can cross that threshold.

Mr. DUFFUS. That is correct.

Mr. MILLER. When we talk about them raising revenues to absorb that O&M, obviously how you split that cost, the more you can lay off on the tribes the better off you are, from the District's standpoint. I am not passing judgment on this, I am just—

Mr. JOHNSON. That is correct.

Mr. MILLER. I want to get back to the target pricing. I don't want to take up all the time, but I want to make sure the committee for the formal record has some of this down.

Before we get to that, Mr. Johnson, in your statement—I am looking on page 4, under section 2, the last sentence in the first paragraph—“Unfortunately, absent such agreement on this issue soon, Reclamation will be forced to curtail construction activities.”

Can you tell the committee exactly what you are saying there?

Mr. JOHNSON. We have a repayment ceiling in the contract that limits the amount that CAWCD is obligated to repay, the total amount they are obligated to repay. Our interpretation of that contract is that they are limited to \$2 billion.

They read the contract differently and they say they are only obligated to pay \$1.8 billion. What I meant by that statement there is, we are currently on a spending path where their obligation, based on our current cost allocation, will in fact—reimbursable obligation will be exceeding \$2 billion in fiscal year 1995.

So if we aren't able to resolve these issues and amend the contract to increase the repayment ceiling to accommodate that, then we would be forced into a position of spending dollars that we don't have a repayment contract to pay the reimbursable costs on.

So in order to avoid that, we would have to curtail construction on some of the reimbursable facilities under construction. That is a remedy that is provided for in the master repayment contract.

Mr. MILLER. The remedy—

Mr. JOHNSON. If we can't get agreement to increase the ceiling to ensure that we are going to get repaid, then the master repayment contract gives the United States the option of curtailing construction.

Mr. MILLER. I appreciate there is the dispute between the \$1.8 billion and the \$2 billion, as the obligation, but even if you accept the \$1.8 billion, you are over the ceiling, you say. You say you are over the \$2 billion.

Mr. JOHNSON. We will be over the \$2 billion in fiscal year 1995. We are over the \$2 billion right now.

Mr. MILLER. But you are over the \$1.8 billion?

Mr. JOHNSON. That is correct.

Mr. MILLER. If that is the figure that the District wants to adhere to for the moment, the amount of dollars that are exposed without repayment are even greater than you had suggested as \$2 billion. You would argue in a court of law that you have a right under the master contract to recover \$2 billion.

Mr. JOHNSON. That is correct.

Mr. MILLER. They would argue you have \$1.8 billion. You have already blown by the \$1.8 billion and you are arguing for secured interest for the \$2 billion, but under their interpretation, you don't have a secured interest for anything over \$1.8 billion. So we are already—

Mr. JOHNSON. We are about \$100 million over.

Mr. MILLER. \$150 million will be—

Mr. JOHNSON. This year. We are at about \$1.9 billion right now, is what our estimates indicate in reimbursable costs.

Mr. MILLER. You basically argue you don't have a secured interest for that repayment?

Mr. JOHNSON. Yes. We feel confident that our interpretation of the contract is correct on the \$2 billion. We have had that reviewed by our Solicitor's office and they support that view.

Mr. MILLER. The next paragraph down, the last two sentences, again, I guess, "If all authorized features of the project were to be built, we anticipate the Federal obligation will exceed the authorized appropriation ceiling by more than 5 percent," which was acknowledged in the last budget submission, was that not so?

Mr. JOHNSON. I would have to check that. I am not sure in the last—

Mr. MILLER. I think actually it was less than 5 percent, therefore it was okay. Back to your statement, "Therefore the adjustment to the authorized appropriations ceiling would be necessary."

Do you want to tell us what you are saying there?

Mr. JOHNSON. That is correct. If we build all of the features of the project that we are planning on building over the long period of time, we will in fact exceed the appropriations ceiling. If we are to complete the project, all of the features will have to be legislated to increase the appropriations ceiling.

Mr. MILLER. Do we know when that would occur?

Mr. JOHNSON. We haven't made a formal decision on when we would request an increase in the ceiling. Our obligations to construct the project would exceed the ceiling in fiscal year 1995.

So we are approaching a time when we will need to approach Congress and ask for an increase.

Mr. MILLER. Would that include this next submission for appropriations?

Mr. JOHNSON. Yes. There will be laid out in the 1995 budget request.

Mr. MILLER. Again, it may go to one of the issues in terms of how we have to construct this. In the past, within the context of legislation, and in the context of these projects, this is something that was not always viewed as being important. From time to time you were able to go to the appropriations process—and various projects throughout the West have done that—and simply moved past that ceiling and gotten the appropriations with the full recognition that you were exceeding the authorization.

If in fact your calculations are correct, I would just throw out, because I think it is a statement of fact, that that is no longer true in the legislative atmosphere in the Congress.

Mr. Pastor sits on the Appropriations Committee, and he knows and we all know on a bipartisan basis the battles that took place in this last session of Congress over authorized and unauthorized projects in the transportation budget, the Water and Power Subcommittee budget and others. The chairman of the Appropriations Committee essentially was put in the position of having to strip those projects from the bill to seek their passage.

And that is a bipartisan effort. That is led by people on both sides of the aisle to make sure that we stay within those caps, and that we have those reviews. I don't know how many times, when the Appropriations Committee, at the behest of the leadership or the Administration or others, tried to put in unauthorized projects, successful amendments were overwhelmingly adopted to strike those projects from those bills. Then when attempts were made to insert those projects in the Senate and bring them back to the House, they were struck on points of order, because the rules of the House have changed in the last two years.

This raises great matters of contention, even with my own delegation in California on transportation monies. But those rules have changed rather substantially. So this isn't a situation that you can simply ignore if you think you have got the ear of one Member or the other.

That determination will have a resulting impact here on that legislative process.

And it is just one of these situations that has evolved over the years in the House of Representatives. By now it is almost impossible to get unauthorized projects or projects exceeding authority past that process, in most instances with the concurrence of the chairman of the Appropriations Committee. It doesn't matter if they are transportation or water projects or what-have-you. In his own bill, HHS, he will not appropriate any money for any project that is unauthorized.

So that is the direction we are moving in. So I think that everybody ought to read Mr. Johnson's statement as one of creating a very serious result certainly within the House and I think in the Congress overall.

Let me yield now to Congresswoman English for questions that she might have, then I have a couple of follow-ups, then we will go to the other members of the delegation sitting here.

Ms. ENGLISH. Thank you, Chairman Miller. You have asked several questions which I was very interested in but I do have a couple of follow-ups.

Mr. Johnson, I am concerned about a couple of things with the \$100 million over the project that you were referring to. One of them is, is there concurrence that that is the figure from CAWCD? Is there agreement?

Mr. JOHNSON. There is not agreement on what the ceiling is. They interpret the contract, you know, as I have said, their repayment ceiling is limited to \$1.8 billion, and our reading of the contract is it is limited to \$2 billion.

That is just a ceiling. The actual determination of the amount that is reimbursable is really a technical analysis. We know what costs have been expended. There are certain rules and procedures related to how you then assign those costs between what is reimbursable and what is nonreimbursable. It is a technical cost allocation analysis.

And that is the basis for our saying that ultimately the obligation is going to be \$2.2 billion.

That analysis has been provided to CAWCD. We have an obligation to consult with CAWCD on the preparation of that analysis. During the last year, as we were initiating repayment, we did in fact consult with CAWCD on that analysis in putting all of that together.

They have a chance to input to us on technical issues related to how that allocation is done, and where they have comments that have merit, we will incorporate them into the analysis.

Ultimately determining that amount is not a negotiation. We consult with CAWCD, but ultimately the United States has the responsibility to ensure that we assign those costs in a technical way consistent with the law and the procedures that we have.

Ms. ENGLISH. Can you tell me briefly some of the projects that you think are increasing the costs over what was agreed to?

Mr. JOHNSON. There are a number of things that have increased the costs since we put the ceiling in the contract. And I don't have a comprehensive list of all the things. Certainly the siphons and the need to repair the siphons is \$150 million additional cost, some of which is nonreimbursable in accordance with 575.

There has been inflation in the project that has caused cost increases. There are some other areas where we have deficiencies in the project that we are making repairs that have caused the costs to increase also.

Ms. ENGLISH. Could the increase, the inflation, the cost of the siphons, be projects that, if the project had gone in a timeframe or there had not been problems like the siphons, that those costs would not have been incurred, wouldn't the costs be right at the ceiling that was set?

Are we talking about some gray areas here that might in fact be partially the responsibility of the Bureau?

Mr. JOHNSON. Our authority for making costs reimbursable and nonreimbursable is pretty clear. Flood control, Indian use of facilities, basically Reclamation law and the authorizing Act in essence define what costs can be reimbursable.

We really don't have latitude when we have a problem like the siphons to make those costs nonreimbursable. There is no choice. If the dollars are spent, we have to allocate those costs and assign them in accordance with the laws and the authority we have.

So I guess from our perspective, no, there is not a gray area. If the costs are incurred, we have to allocate them to those reimbursable functions consistent with the authorities and the laws that we have.

I appreciate that there are issues associated with the siphons. CAWCD's concerns on particularly the siphons were partially addressed, I think, in the legislation that was provided, that made half of those costs nonreimbursable. But we had to have authority to do that. We couldn't do that administratively.

Ms. ENGLISH. Thank you.

Mr. MILLER. Let me ask you one question and then go to the other Members. Well, actually two questions. The issue of target pricing, as I understand the discussion I have seen in this, where you would make water available to non-Indian irrigators at a target price, and then I guess CAWCD has to make up that cost obligation to the Federal Government, but internally they make that, that theoretically allows non-Indian irrigators to stay in business or lowers their cost so hopefully they can stay in business.

That also diminishes the obligation to the Federal Government, does it not, because there is less cost associated with the repayment of that water because it is agriculture water, and that is the way it is set up under the arrangements for the CAP?

Mr. JOHNSON. That is correct.

Mr. MILLER. So there is an accounting procedure by which you end up owing the Federal Government, if you can keep this water in a characterization of non-Indian agricultural water?

Mr. JOHNSON. That is right.

Mr. MILLER. What happens on the Indian side of that equation?

Mr. JOHNSON. That is an area where we have a difference, I think, on O&M costs with CAWCD.

Mr. MILLER. They would be paying market rates?

Mr. JOHNSON. Under CAWCD's interpretation of the contract, they would assign the O&M cost based on proportionate deliveries. We would be setting water rates based on, say, delivery of 300,000 or 400,000 or 500,000 acre-feet, rather than the 1.5 million acre-feet that was intended, and that will drive up the cost of water if it was not subsidized from some source, significantly, and result in a charge for Indian use under the CAWCD proposal, in the early years of \$80 to \$120 an acre-foot, depending on how much water is delivered.

Mr. MILLER. That would be adjusted on a yearly basis based upon O&M?

Mr. JOHNSON. It would depend on the O&M costs on an annual basis, but more importantly it varies based on how much water is delivered. See, we are not delivering as much water, and the agriculture users are not paying—they had an obligation to pay for the water whether they took it or not, and we are not delivering as much water.

So CAWCD says, well, now it is our discretion to assign these O&M costs based on the actual deliveries. And with the high fixed O&M costs of \$30 million, we get a very high acre-foot on O&M cost that ends up being assigned to Indian tribes.

Our view is that the non-Indian agriculture users were responsible for paying that cost. Now that they have defaulted, there is no basis for CAWCD to assign those costs, you know, in this manner. If the non-Indian agriculture folks have defaulted in their O&M payments, then that is a relationship between CAWCD and non-Indian agriculture, and it is up to CAWCD to come up with the money to pay that cost that non-Indian agriculture is not paying.

Mr. MILLER. What is the target price under discussion?

Mr. JOHNSON. For non-Indian agriculture, it is \$17 to \$27 an acre-foot, depending on which pool it is in.

Mr. MILLER. That would cover what?

Mr. JOHNSON. That would cover the cost of delivering the water to the irrigators. Actually it would not cover the full cost. The variable cost of delivery is approximately \$39 an acre-foot. That is just a variable cost. The full cost if we delivered the 1.5 million acre-feet, paid the full \$30 million fixed O&M and the variable cost, the full cost that was intended to be charged originally if the project would have worked the way it was intended, would be about \$60 an acre-foot.

Mr. MILLER. Yesterday we visited Gila River and flew over fairly extensive agricultural investment in terms of, I think, olives and citrus. I don't know this, but let me just speculate, under this scenario we would then be, after, if you have arranged a target price for non-Indian irrigation, you would be hard pressed to do the same for Indian irrigation.

And absent that, if those prices are what you suggest they are, I don't know, you know, where you break even in citrus and that sort of thing, but absent serious Federal subsidy to Indian irrigation, they are not going to be in business.

Mr. JOHNSON. They are not going to be using CAP water, not at that price.

Mr. MILLER. There is always another choice in the State. That is why we have the CAP project, right? Or there is a choice for a while, I guess. But that would be the arrangement, and the theory, the unspoken theory here is that, well, we will meet our trust obligations, the Federal Government will have to meet its trust obligations to the Indians. They have made this investment, somehow we will bail them out.

So it is sort of an indirect three cushion shot here where the unspoken is that we are going to reach into our pocket, the Federal Treasury, because we are not going to let that happen to the Indian nations in this area. You don't have to agree to that.

Mr. JOHNSON. We don't have to. We think we are obligated to pay O&M costs.

Mr. MILLER. We are still under \$3 billion, right? I don't want to have a cost overrun right in this hearing room.

Mr. Duffus, have you looked at going to this question of the stretchout of the loans to 50 years, have you looked at the financial integrity of the individual districts? You didn't cover that in this.

Mr. DUFFUS. We did not look at that.

Mr. MILLER. Thank you. Ed, do you have questions?

Mr. PASTOR. I will submit some written questions.

Mr. MILLER. We will have written questions, both from the committee and I assume from Members that are sitting here. We will transmit those to you.

Mr. PASTOR. I just want to make a comment, and it shows how sometimes reasonable men will differ. In one testimony from GAO on page 8, which concerns projected power revenues that may not materialize, you say that you have a contract, it will expire in 2011, and we don't know what the situation will be.

It is interesting that Mr. Duffus sees this as a liability. If you turn to Mr. Johnson, on page 5, he sees utilization of windfall power revenues as an asset. Somehow we are going to have to get some agreement on issues like this.

I think it is very important as we make a determination of the financial future of CAP, that at least we get some agreement of how we are going to treat circumstances like this, because it can't be both a liability and an asset. In part I believe this is a function of looking at the CAP from a best-case or worst-case scenario. I would just like you to comment on that.

Mr. JOHNSON. I think the GAO comment, and gentlemen, correct me if I am wrong, is probably related to what happens after 2011 in terms of the Navajo power plant, and is there still going to be a viable power plant to provide power resources to pump the water.

Mr. PASTOR. Yesterday we were talking about 2032.

Mr. JOHNSON. Our comment about being an asset was really talking about the period between now and 2011, when we are going to generate significant revenues from the sale of excess power.

So we are really talking about two time periods.

Mr. PASTOR. 2011 and 2023?

Mr. DUFFUS. We are talking about 2011 and what happens beyond 2011. That is when the contracts expire. The two that the

District has expire in 2011. The one it is negotiating is to expire in 2011 as well.

So we are saying that the District is assuming over the 50-year term that they were going to have that money. And we are raising an uncertainty that when the contracts expire in 2011, it is not known whether they can be renewed at the same favorable rates. I think that is the difference.

Mr. PASTOR. Thank you, Mr. Chairman.

Mr. MILLER. Mr. Kyl.

Mr. KYL. Mr. Chairman, I just have one question for Mr. Johnson. On page 4 of your testimony you say the Reclamation would be forced to curtail construction activities and the second contingent, you actually testified that was just an option. The Reclamation has not made a decision as to—

Mr. JOHNSON. No, we have not. As a matter of fact, we are hopeful that our negotiations with CAWCD will be fruitful and that not have to occur.

Mr. KYL. But if it did, that is not a certainty it would be curtailed, that is an option that you have?

Mr. JOHNSON. That is an option that we have, yes.

Mr. KYL. Thank you.

Mr. MILLER. Sam.

Mr. COPPERSMITH. Let me submit most of these for the record. But I'd like to ask Mr. Johnson about the Bureau's contention that you need to be brought into discussions of the agreement that the CAWCD has made, and you need to approve any agreement.

I don't want to take time now to discuss the procedural framework, but substantively, what are the sorts of things that the Bureau would like to see in that contract that aren't there now? What sort of things would the Bureau's approval depend on, or what issues would the Bureau like to see addressed that have not been?

Mr. JOHNSON. I think simply our only concern is to protect the financial interests of the United States and ensure that the United States is fully repaid. And I think that if we can resolve the O&M issue and the repayment ceiling issue, and distribution system loans, and ensure that in fact the United States is going to receive full repayment consistent with the terms that have been established, then I think that is what we are looking for.

We are looking for those conditions to be incorporated into the proposal that CAWCD has put forward.

Mr. COPPERSMITH. Thank you.

Mr. MILLER. Mr. Stump.

Mr. STUMP. No thank you, Mr. Chairman.

Mr. MILLER. Thank you very much for your cooperation. Mr. Duffus, would you mind properly characterizing, this is not a formal GAO report, correct?

Mr. DUFFUS. That is correct, Mr. Chairman. We are here testifying today on our ongoing work. We have not got to the reporting stage. It is our intention after this hearing to sit down with committee staff and decide where we go from here in terms of reporting.

So this is testimony and not a formal GAO report.

Mr. MILLER. Thank you. Thank you, very much for your cooperation. As you know, we will be sitting down after this hearing with both of these parties. Thank you.

The next panel will be made up of the Honorable George Miller, the Mayor of the city of Tucson, Arizona, and Mr. Mark DeMichele is the President and CEO of Arizona Public Service and co-chairman of the Governor's Advisory Committee on the CAP. Ms. Rita Pearson, Director of the Department of Water Resources, State of Arizona, and Mr. Sam Goddard, President, Board of Directors, Central Arizona Water Conservation District.

Welcome to the committee. Your formal statements and the supporting documents will be made part of the record of this committee. You can see the number of questions that we have, so to the extent you can please summarize. Mayor Miller, we are going to begin with you. That is a great name in the State of Arizona.

PANEL CONSISTING OF HON. GEORGE MILLER, MAYOR, CITY OF TUCSON, AZ; MARK DeMICHELE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ARIZONA PUBLIC SERVICE CO., AND CO-CHAIRMAN, GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE; RITA P. PEARSON, DIRECTOR, DEPARTMENT OF WATER RESOURCES, STATE OF ARIZONA; AND SAMUEL GODDARD, PRESIDENT, BOARD OF DIRECTORS, CENTRAL ARIZONA WATER CONSERVATION DISTRICT

STATEMENT OF MAYOR GEORGE MILLER

Mayor MILLER. Chairman Miller, thank you very much for coming here, and also I want to say hello to the committee members here.

I am glad to see the congressional group from Arizona here. I know that my own experience, every one of the Members of the Arizona congressional delegation have been south of the Gila, and we appreciate that too.

I certainly appreciate the opportunity to present testimony on behalf of the city of Tucson concerning Tucson's water situation and its firm commitment to the Central Arizona Project.

I want to start off by emphasizing Tucson's historic role in bringing the Central Arizona Project to Arizona. Until CAP water delivery began, Tucson was totally dependent on groundwater. As a matter of fact, the largest city in the United States totally dependent on groundwater, mine water. Tucson committed early to groundwater conservation and to taking its full CAP allocation as rapidly as possible before Arizona law demanded it. But taking delivery of CAP water has turned out to be a difficult process for us.

Economic factors underlying original cost assumptions have collapsed. Original estimates for operation and maintenance as well as capital charges have skyrocketed. As this subcommittee is aware, the most critical change is the agricultural community's severely reduced economic ability to take CAP water. As a result, many of the costs that were to have been paid by agriculture will shift to municipal users.

What is more, new technical problems have arisen that make difficult and expensive Tucson's immediate conversion to full reliance on CAP. I will speak to each one of these issues. Before I do, I want

to say the most important thing I can tell this subcommittee today, and I want to emphasize that, the most important thing I can say today is that despite the enormous complexity of the issues and number of conflicting interests involved, Tucson is satisfied with efforts taken by the Central Arizona Water Conservation District to realize the city's financial obligation to support the Central Arizona Project.

The current approved structure of charges is one that Tucson can live with. The process has been one of cooperation, open debate, statewide public involvement, and has recognized and reconciled many conflicting interests across the State. Tucson applauds the CAWCD and reports to this subcommittee the city's belief that the CAWCD has made a strenuous effort to meet its obligations to the United States of America while addressing the needs of the water user constituencies.

Tucson now serves 590,000 area residents. We serve not only the city limits, but outside. That number will grow to 1.5 million by 2025, and estimated at 2.5 million 100 years from now. We used 105,372 feet of water in 1992 and will need 430,000 acre-feet in the year 2100, no matter how successful our conservation efforts are.

Tucson has been a major supporter of the Central Arizona Project. We recognize that CAP water will be the most viable long-term water source to sustain Tucson's economic and population growth, meet Arizona groundwater code requirements, and conserve and preserve the city's groundwater resources for the future.

In 1989, Tucson made a policy decision of rapid transition from mine water, mine groundwater to surface water. To prepare for CAP, Tucson has been shifting its economic resources from drilling new wells and maintaining the well fields to reorienting the water delivery system and to construction of a large treatment plant capable of delivering treated CAP water to substitute renewable water for groundwater use.

Nearly \$250 million has been invested in these facilities. The purification plant alone is \$70 million.

The city's allocation of CAP water is 148,420 acre-feet with an additional 25,000 acre-feet allocated to private water companies and State land in the area.

This area's current CAP allocation will be totally utilized by the year 2025. The city needs to acquire as much additional CAP water as possible.

Tucson is and must be committed to the Central Arizona Project to support the city's future growth and environmental needs. The riparian areas in our basin have been adversely affected as the mining of water reduces the depth of the water table by 22.5 feet every year. For instance in the Tanka Verde area, those who are familiar with Tucson, over the northeast area, we, the City of Tucson Water Department, a year ago last summer was actually bringing water in water tank trucks to resupply that particular area because the trees were dying for the simple reason that we had pumped so much water out of the underground that the roots couldn't get down far enough to replenish the vital water they require.

Also, I think one of the most important components when you talk about the environment is the obvious, and that is the people

who are going to live in the area of Tucson in the future. For the Tucson basin to be able to provide water to its citizens, the CAP is a necessity. There is no alternative actually to CAP water. And our next source of clear water, drinking water, is going to be reclaimed water.

And if I was a very, very young man, much younger than I am now, I think I would be buying up a perfume franchise for the year 2030.

Tucson's long-term commitment to the CAP remains intact despite financial changes and problems experienced by the city at the inception of the CAP water delivery. Conversion of Tucson's 90,000 water users from groundwater to surface water has been a significant challenge to the city. When the first 84,000 connections were transferred from groundwater to CAP water, early this year, 7 percent of those customers experienced problems on a scale that had not been anticipated.

The surface water caused encrusted materials and old galvanized steel pipes to break loose and resulted in delivery of brown water to approximately 6,000 of the connections.

The city established a special office to deal with consumer complaints and employed nationally recognized experts to help solve the problem. However, a quick solution could not be achieved. We have already spent above and beyond what we even considered spending on this, \$350,000 to meet the needs of individual people who have been connected with CAP water.

Tucson has returned a percentage of its customers to groundwater while solutions are being sought. Unavoidably we will not be able to take delivery of our full CAP entitlement as quickly as anticipated. Tucson, however, will resolve its problems and take its allotment as rapidly as possible.

I would like to address two other subjects, one concerning the Arizona Water Rights Settlement Act, as well as terminal storage. Tucson is committed to implementing the settlement claims to the Tohono Nation embodied in the Water Rights Settlements Act of 1982. The city and local parties timely performed all their obligations under the Act.

However, unresolved disputes between the Nation and the allottees have to date prevented dismissal of litigation. I want to emphasize, we, the city of Tucson have made an agreement, but it is being held up from being resolved because of the difference between the Nation and the allottees.

Last year, the Arizona congressional delegation introduced a comprehensive amendments package which has been negotiated among the Nation, the State, the local parties, and the city of Tucson. And while the allottees participated in negotiations, they and the Nation were unable to resolve their differences at this point.

This year, staff for the Senate Committee on Indian Affairs has been working with the Nation, the allottees, and the Departments of the Interior and Justice to develop a new comprehensive amendments package for introduction next year. We hope to have your assistance in resolving this difficult problem.

Meanwhile, to assist the Nation and the allottees, Tucson has been buying its CAP water through the Nation so the Nation can

start to get financial benefits from the settlement. We are paying the same price to them as we would to the CAWCD.

Terminal storage is critical to Tucson's plan to rely on CAP for its water future. The problems Tucson has switching from groundwater to CAP water highlight the need for a storage facility near the terminal of the aqueduct. Terminal storage is the final element of the Central Arizona Project in southern Arizona.

Tucson plans to rely entirely on Central Arizona Project water as soon as the switch from groundwater to CAP water can be made.

The Bureau is currently doing detailed planning, and beginning EPA processes on the terminal storage proposal has been approved by the city and the CAWCD board. The principal elements of the proposals are a 15,000 acre-foot storage area reservoir, recharge facilities, and well fields with pipelines to the storage reservoir, so that recharged water can be recovered and used to replenish the reservoir supply.

The estimated cost of this project is \$50 million for the storage facility and \$50 million for existing new well fields and pipelines.

We are counting on the Bureau to expedite its work on the crucial portion of the Central Arizona Project so Tucson can plan for full reliance on CAP water and stop pumping groundwater. We were disappointed to learn earlier this week that the draft environmental impact statement which was to be completed as we thought January 1994, will be delayed until September 1994 because of the physical problems at the proposed site.

I want to thank you for giving me this opportunity to brief you on Tucson's important long-term water issues, and certainly I would be happy to answer any questions you may have.

Mr. MILLER. Thank you, very much.

[Prepared statement of Mayor Miller follows:]

December 10, 1993
REVISED

GEORGE MILLER
MAYOR, CITY OF TUCSON

STATEMENT TO THE SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
HOUSE NATURAL RESOURCES COMMITTEE

Chairman Miller, Members of the Subcommittee:

I appreciate the opportunity to present testimony on behalf of the City of Tucson concerning Tucson's water situation and its firm commitment to the Central Arizona Project.

Tucson lies within the Upper Santa Cruz sub-basin; Tucson Water serves approximately 90 percent of the area's population of approximately 650,000. Since the early 1900s, when the Santa Cruz River flows diminished, groundwater has been Tucson's sole water source. As a result, Tucson has been forced to mine groundwater - withdraw more groundwater than is naturally replenished to the basin - to provide water to its growing population. Tucson, recognizing the finite nature of the groundwater resource, committed to a conservation ethic in the 1970s.

Since the 1970s, Tucson has been a major supporter of the Central Arizona Project to import Colorado River to the metropolitan areas of the state. Tucson recognizes that CAP water will be the most viable long-term water source to sustain Tucson's economic and population growth, meet the Arizona groundwater code requirements, and conserve and preserve the City's groundwater resource for the future.

In 1989, after a lengthy process of study and public input, Tucson adopted a long range Water Resources Plan. As part of that Plan, Tucson made a policy decision of rapid transition from mined groundwater to surface water. Tucson's long range Plan called for transition to CAP water earlier than required by Arizona's Groundwater Management Code. For the past twelve years, Tucson has been shifting its economic resources from drilling new wells and maintaining the well fields, to reorienting the water delivery system, and to the construction of a large treatment plant capable of delivering treated CAP water to substitute renewable water for groundwater use. Tucson has invested nearly \$250 million in the facilities required for reliance on CAP water. In addition, the City is currently recharging CAP water and plans to expand such recharge. This water will be stored underground for future use.

Growth projections put the Tucson area's population at 1.5 million by 2025, and at 2.5 million 100 years from now. The City of Tucson used 105,372 acre-feet of water in 1992, and is projected to need 240,000 acre-feet in 2025, and 430,000 acre-feet in the year 2100. Tucson has a potential service area

which includes most of eastern Pima County, north of the San Xavier Indian Reservation. Additionally, along with its own residents, Tucson serves other municipal and industrial providers in the area. The City's allocation of CAP water is 148,420 acre feet, with an additional 25,000 acre feet allocated to private water companies and state land in the area. Tucson's long range plan indicates that this area's current CAP allocations will be totally utilized by the year 2025. The plan calls for the City to acquire as much additional CAP water as possible.

Tucson is and must be committed to the Central Arizona Project to support the City's future growth. At this time, I would like to assure this Committee that Tucson's long-term commitment to the CAP remains intact, despite problems experienced by the City at the inception of CAP water delivery.

In the past few months, new problems have arisen concerning Tucson's conversion to full reliance on CAP. Cost assumptions underlying the utilization of CAP water have changed markedly from initial projections, and technical problems were encountered when CAP surface water entered the City's pipelines. I will speak to each of these issues in turn.

CAWCD Structure of Charges

As this Committee is aware, the most critical change is the agricultural community's severely reduced economic ability to take CAP water. As a result, many of the costs that were to have been paid by agriculture will shift to municipal users. Operation, maintenance and replacement (OM&R) rates were originally estimated to be within a range of \$55 to \$60, then escalating on the basis of inflation. Today, it is clear that these rates will not be high enough to cover fixed OM&R costs. Capital charges were initially to be in the \$5 to \$10 per acre foot range, escalating slowly to \$48 over the 50 year repayment period. With CAWCD's new financial situation, these rates will escalate much more quickly and to a somewhat higher level.

Nevertheless, Tucson is satisfied with efforts taken by the Central Arizona Water Conservation District to realign the City's financial obligation to support the Central Arizona Project. The current approved structure of charges is one that Tucson can live with. The process has been one of cooperation, open debate, state-wide public involvement, and has recognized and reconciled many conflicting interests across the State. The resulting plan makes it possible for Tucson to meet its obligations to CAWCD, and for CAWCD to meet its obligations to the federal government. Tucson applauds CAWCD, and reports to this Committee the City's belief that CAWCD has made a strenuous effort to meet the needs of its water-user constituencies, as well as its obligations to the United States of America.

Tucson also wishes to bring to the attention of this subcommittee the thorough review of the issues pertaining to CAP utilization and financing achieved by Mark DeMichele and Governor Symington's CAP advisory committee. Many ideas which became part of a successful rate restructure were the direct result of the serious analysis completed through the cooperation of all interests working together on this committee.

Technical Implementation Problems in Tucson

Conversion of Tucson Water's 170,000 customers (590,000 people) from groundwater to surface water has been a significant challenge for the City. In order to comply with anticipated new stringent EPA requirements, Tucson constructed a state of the art water treatment plant utilizing ozone and chloramine rather than chlorine. We operated a pilot plant in Phoenix to identify and deal with the problems that could be encountered when CAP water was introduced in Tucson. A major public relations campaign was implemented to prepare our customers for the changes they might encounter when CAP water arrived. When the first 84,000 customers were transferred from groundwater to CAP water early this year, 7% of those customers experienced problems on a scale that had not been anticipated. The surface water caused encrusted materials in old galvanized steel pipe to break loose and resulted in the delivery of brown water to approximately 6,000 customers. The City established a special office to deal with customer complaints and employed nationally recognized experts to help solve the problem. However, a quick solution could not be achieved.

At one point, the Tucson City Council voted to stop taking delivery of CAP water until this problem could be resolved. The Council was clear and united, however, in continuing its commitment to solve the "brown water" problem and return to CAP. In fact, the Council reversed its vote after our technical people discovered a means of segregating the affected customers and returning them to groundwater. Tucson must deal with the quality issues which have arisen because of the flow of CAP water through the City's older pipe system. Economic consequences will include pipeline repair and accelerated replacement, costs for homeowner damages, and the possible need for a new demineralization plant. However, we will preserve our basic conservation ethic, and our long-term need for CAP water to meet the needs of Tucson's growing population will continue. To this end, Tucson has convened a committee of citizens and experts to study and explore the options and costs associated with a return to full CAP utilization. Additionally, Tucson continues to explore alternative means of utilizing CAP water other than direct use and delivery. Unavoidably, Tucson will not be able to take delivery of its full CAP entitlement as quickly as anticipated. But Tucson will certainly resolve its problems and take its allotment as rapidly as possible.

To assure that the Committee is fully informed with regard to Tucson's major water issues, I will address three more subjects in this testimony: environmental concerns in the Tucson region, the Southern Arizona Water Rights Settlement Act (SAWRSA), and Tucson Terminal Storage.

Environmental Concerns

The riparian areas in our basin have been adversely affected by groundwater mining, as the water table depth has diminished by two to two-and-a-half feet per year. For example, the City of Tucson has had to truck in water to preserve vegetation in the Tanque Verde riparian area. As well, subsidence is suspected in our area, which could result in damage to both the natural landscape and the human infrastructure. Tucson is committed to conserving the groundwater table, and the natural resources of our desert environment. Without our full allotment of Central Arizona Project water, we risk further degradation of our natural environment.

Southern Arizona Water Rights Settlement Act

Tucson is committed to implementing the settlement of the water claims of the Tohono O'odham Nation which was embodied in the Southern Arizona Water Rights Settlement Act of 1982. The water claim dispute had its origins in 1975 litigation initiated by the Nation against Tucson and other parties to establish water rights and recover damages for perceived injuries to those rights. As a result of protracted negotiations, SAWRSA was passed in 1982. The Act called for the City and other local entities to contribute money within a year to a cooperative fund, and for the City to contribute 28,200 acre feet of effluent to the Secretary within a year. In addition, the Nation and the Secretary were to enter into a settlement agreement within a year. The City and local parties timely performed all of their obligations, and the settlement agreement between the Nation and the Secretary was timely executed.

However, unresolved disputes between the Nation and allottees have to date prevented dismissal of the litigation. Tucson has been working with the Tohono O'odham Nation, and has attempted to work with the allottees to develop proposed amendments to the Settlement Act that will resolve the remaining issues. Last year the Arizona congressional delegation introduced a comprehensive amendments package which had been negotiated among the Nation, the State, local parties and the City of Tucson. While the allottees participated in the negotiations, they were unable to resolve their differences with the Nation.

This year, staff of the Senate Committee on Indian Affairs has been working with the Nation, the allottees, and the

Departments of the Interior and Justice to develop a new comprehensive amendment package for introduction next year. We hope to have your assistance in resolving this difficult problem. Meanwhile, to assist the Nation and allottees, Tucson has been buying its CAP water through the Nation so that the Nation can start to get financial benefits from the settlement.

Finally, terminal storage is critical to Tucson's plans to rely on CAP for its water future.

Terminal Storage

The problems Tucson has had switching from groundwater to CAP water highlight the need for a storage facility near the terminus of the aqueduct — terminal storage, as the final element of the Central Arizona Project in Southern Arizona. As I explained earlier, Tucson plans to rely entirely on Central Arizona Project water as soon as the switch from groundwater to CAP water can be made.

As early as 1978, the Commissioner of the Bureau of Reclamation notified the Chairman of the House Committee on Interior and Insular Affairs that the San Pedro Aqueduct had been eliminated from the CAP and, instead, the Bureau proposed to extend the Tucson aqueduct from Pinal County "to the south, and to add terminal storage which will facilitate improved operation of the Tucson aqueduct and its integration with the Tucson water system."

In 1981, the Secretary of the Interior assured Governor Bruce Babbitt "that the Tucson aqueduct and any required storage will be sized to meet the future needs of Pima County within cost and water allocation limits."

When the Plan Six Agreement was executed in 1986, the United States, CAWCD and the City of Tucson agreed that Terminal Storage, if approved by the Secretary, was to "provide as reasonably reliable a supply of municipal and industrial (M&I) water for the water users in the Tucson area as is provided for other major Central Arizona Project M&I water subcontractors."

When the Bureau designed the CAP aqueduct from the Phoenix area to Tucson, it assumed that terminal storage would be part of the Project. The pumping plants for that stretch of the aqueduct were built with single discharge lines while the pumping plants between the Colorado River and the Phoenix area contain dual discharge lines. This fact, the increased risk of emergency outages south of the Phoenix area, and the presence of regulatory storage at New Waddell Dam all combine to make the CAP to Phoenix area subcontractors significantly more reliable than the supply to the Tucson area.

The Bureau is currently doing detailed planning and beginning NEPA processes on a terminal storage proposal that has been approved by the City and the CAWCD board. The principle elements of the proposal are as follows :

1. A 15,000 acre foot surface storage reservoir with 350 cfs gravity flow to the Tucson Water Treatment plant;
2. Joint surface recharge facilities at the Pima Mines Road location, with a CAWCD share of approximately 15,000 acre feet per year;
3. Recovery of recharged water from two of Tucson Water's existing exterior wellfields. Avra Valley and Santa Cruz wellfields would be expanded slightly with the flexibility to introduce flows either at the treatment plant or into the surface reservoir;
4. Recovery of recharged water from a new Central Avra Valley wellfield, located on City-owned property; the pumped supply would be introduced directly into the CAP canal on the discharge side of the Brawley Pumping Plant.

The estimated cost of this project is \$50 million for the storage facility and \$50 million for existing and new wellfields and pipelines. We were disappointed to learn earlier this week that the draft Environmental Impact Statement which was to be completed in January 1994 will be delayed until September 1994 because of physical problems at the proposed site. We are counting on the Bureau to expedite its work on this crucial portion of the Central Arizona Project so that Tucson can plan for full reliance on CAP water and stop pumping groundwater.

Thank you for giving Tucson this opportunity to brief your Subcommittee on our important long term water issues. I will be happy to address any questions you may have.

Mr. MILLER. Again, thank you for your hospitality and for the chance to talk to you and your city staff about specifically the terminal storage facility. We were properly admonished and we did fly over that area. They told me that area was a reservoir down there even though it didn't look like it. In California we put reservoirs in steep canyons. I have never seen a reservoir on flat land. Apparently it is doable.

It is a matter of serious negotiations with the Bureau. We will stay involved in that.

Mark, welcome to the committee. I told you many months ago, Mark, you didn't want to do this.

Mr. DEMICHELE. Some advice I take and some I don't.

Mr. MILLER. I think along with others, I know certainly with the Members of your congressional delegation, we should thank you for the time and the effort that you put on behalf of starting to delineate these issues, and then going forward and making recommendations. Whether or not those recommendations are all accepted or partially accepted or negotiated into something else is really almost immaterial.

I think the fact that you were willing and your committee was willing to pull this apart and to start to deal with some of the basic underlying facts and situations, we should all thank you for. I think you probably have reduced the time to get to the end of this story rather dramatically by that effort.

But if you ask me again today I would still advise you not to get into it. I am sure it has taken an awful lot of time away from your other concerns and interests. But welcome to the committee.

STATEMENT OF MARK DEMICHELE

Mr. DEMICHELE. Thank you, Chairman Miller. And welcome to Arizona. Nice to see you in our territory. And a special welcome home to the Members of our delegation here this morning. I think it is more than that you all are together this morning.

I want to thank you for the opportunity to present testimony on behalf of the Governor's CAP Advisory Committee. You have got a full agenda, so I am going to ask that my written statement be submitted for the record and I be permitted to summarize key points of that statement in the interests of time.

First and foremost, Mr. Chairman, I want to thank you for your willingness to take time from your busy schedule to meet with Rita Pearson and other members of our Advisory Committee and me during the course of the examination of the pertinent issues surrounding CAP's future. I appreciate the courtesies you have extended to me as well and your willingness to provide us consultation as we have embarked on the process of addressing the many issues affecting CAP.

As you know, the advisory Committee's recommendations represent, I believe, an extraordinary effort by a diverse group of people who worked long and hard during the past 12 months to identify and examine all major issues impacting the CAP.

I can assure you no stone was unturned. It was an exhaustive process.

I think you will agree many people felt this process had very little chance of success at the outset. I am confident these thoughtful

recommendations will be useful and important to Governor Symington, the Department of Water Resources, the CAWCD, the Bureau of Reclamation, and your committee as it exercises its jurisdiction and responsibilities associated with oversight and investigation.

I am rather proud of the work that we have done in spite of all the effort that it took. I am very pleased to present those recommendations for the record at this time.

Mr. Chairman, as you are well aware, the advisory Committee was composed of representatives of all parties affected by CAP. At your urging, which I greatly appreciated, the advisory Committee recruited several environmental leaders to be part of the process. A special subcommittee on environmental issues was set up, and the working group charged with identifying and reviewing all environmental issues related to the CAP.

And again, sir, I must emphasize it was an inclusive and open dialogue to reach as much consensus as possible on these important environmental issues. Although the final recommendation does not contain agreement on all environmental issues examined by the committee, I am heartened that several innovative recommendations have been put forth and agreed to by all the interested parties which comprised the advisory Committee.

They include recommendations for using CAP water to benefit the environment, to benefit natural habitats, and to enhance our State's natural resources. We also concluded that the State and CAWCD should aggressively study the potential benefits from environmental, fish and wildlife use, not only to produce benefits in the form of natural resource enhancement, but also because such uses may potentially reduce repayment obligations on the project.

To complete the historical package, we concluded the State environmental trust fund should be established, and on Tuesday, December 21, the week after next, the Department of Water Resources and CAWCD will hold hearings on the establishment of the environmental trust fund and review revenue sources to be used.

Now, I recognize that some environmental leaders have communicated in written form to Commissioner Beard addressing several concerns which did not make it into our committee's final recommendations. And quite frankly, no interests represented on our committee got everything they wanted, not the cities, not agriculture, not the business interests. We intended to balance all the interests as best as we could accomplish.

The State focused on goals to produce a solid, defensible set of recommendations.

Although I believe it is within your purview, Mr. Chairman, to review these additional environmental issues, I would hope the Natural Resources Committee would give credit where credit is due and support the findings of the CAP Advisory Committee as it relates to environmental reforms as I have proposed.

Based on the results of our work in Arizona, we do have consensus on work in several issues and plan to translate those issues into an Arizona legislative package designed to quickly implement several recommendations. We believe the aggressive legislative package will strengthen the CAP and help reach two of the three goals, which I set forth in my own mind as of paramount concern.

First, these changes are designed to assure realistic long-term water supply for Arizona well into the next century by utilizing CAP in an efficient and cost-effective manner. Second, a goal which I know is of enormous concern to your committee, is that of doing everything possible to protect the interests of the Federal taxpayer to ensure long-term financial viability of the project.

The financial legal subcommittee that authored our financial plan was comprised of some of the best financial minds and legal minds in this area. They created a financial model on their own and completed the comprehensive analysis that will assure the State of Arizona through its designee CAWCD, will be able to meet its obligations to repay the Federal Government.

And lastly, Mr. Chairman, if I may be so bold, I will identify a third goal, which I know is of high priority to you and other members of the committee.

The reason I say "bold" is that this issue is probably the most vexing of all those associated with the long-term prospects of putting CAP in a realistic financial condition. I speak of outstanding Indian water rights claims, which in my opinion are causing enormous uncertainty, ambiguity, and questions about the long-term O&M costs associated with the project.

Now, I have discussed this issue with Secretary Babbitt, Assistant Secretary Rieke, and have strongly suggested we need attention to this issue in order to rationally approach solutions to allocation, utilization, and costs associated with the CAP resource.

We plan to do our part by including in our aggressive legislative package a plan to create an Office of Indian Settlement Facilitation. I implore you, Mr. Chairman, on behalf of all interested parties in Arizona, to use your influence and apply whatever pressure necessary to bring the issue of Indian water rights settlements to the forefront as you address issues that impact CAP.

In closing, your leadership has played an impressive role in restructuring the water projects in California, Utah, and North Dakota in the last several years. It is not lost on members of the Arizona business communities that you will undoubtedly be focusing your attention and that of other members of your committee as we go about enactment of the recommendations set forth in the Governor's CAP Advisory Committee.

Again, I want to thank you for your support and interest in our committee's work. I would be pleased to answer any questions at the appropriate time.

[EDITOR'S NOTE.—See appendix for additional material for the record submitted by Mr. DeMichele.]

Mr. MILLER. Thank you.

[Prepared statement of Mr. DeMichele follows:]

1 TESTIMONY OF MARK DEMICHELE , CO-CHAIRMAN OF THE
2 GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

3
4 FOR THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON
5 NATURAL RESOURCES, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

6
7 GEORGE MILLER, CHAIRMAN

8
9 FRIDAY, DECEMBER 10, 1993

10
11 CHAIRMAN MILLER AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE,
12 WELCOME TO ARIZONA.

13
14 I AM PLEASE TO HAVE THE OPPORTUNITY TO OFFICIALLY PRESENT THE REPORT OF
15 OUR RECENTLY COMPLETED GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY
16 COMMITTEE AND TO DESCRIBE THE PROGRESS OF OUR STATE'S EFFORTS TO CRAFT
17 A PLAN FOR THE OPERATION OF THE CENTRAL ARIZONA PROJECT THAT WILL
18 ASSURE AN ADEQUATE WATER SUPPLY IN ARIZONA INTO THE 21ST CENTURY AND
19 BEYOND. MR CHAIRMAN, I REQUEST THE GOVERNORS CENTRAL ARIZONA PROJECT
20 ADVISORY REPORT BE SUBMITTED INTO THE RECORD.

21
22 FOR ARIZONA, SECURING OUR WATER SUPPLY IS OF UTMOST IMPORTANCE.
23 QUESTIONS ABOUT THE AVAILABILITY OF WATER IN ARIZONA STILL ARISE. THESE
24 QUESTIONS UNDERMINE OUR EFFORTS TO BRING NEW JOBS TO THE STATE. AS
25 CHAIRMAN OF THE GREATER PHOENIX ECONOMIC COUNCIL, I HAVE HAD THE
26

1 OPPORTUNITY TO PARTICIPATE IN OUT-OF-STATE RECRUITING MEETINGS.
2 INEVITABLY, THE FIRST QUESTION RELATES TO THE AVAILABLE SUPPLY OF WATER
3 IN OUR STATE. AS CO-CHAIRMAN OF THE GOVERNOR'S CENTRAL ARIZONA PROJECT
4 ADVISORY COMMITTEE, I AM COMMITTED TO CREATE STRATEGIES AND
5 RECOMMENDATIONS THAT WILL FINALLY ANSWER THOSE OUTSTANDING WATER
6 QUESTIONS.

7
8 THE GOVERNOR, THE CAP ADVISORY COMMITTEE, LEADERS OF OUR ARIZONA
9 LEGISLATURE, THE ARIZONA DEPARTMENT OF WATER RESOURCES AND THE
10 CAWCD BOARD MEMBERS, WITH WHOM I HAVE REVIEWED OUR
11 RECOMMENDATIONS, ALL ARE DEDICATED TO THE EFFICIENT AND COST EFFECTIVE
12 OPERATION OF THE CENTRAL ARIZONA PROJECT AND WE ARE PREPARED TO
13 FULFILL OUR OBLIGATION TO REPAY THE UNITED STATES GOVERNMENT.

14
15 IN ORDER TO ACCOMPLISH OUR MISSION TO DEVELOP THE MOST USEFUL REPORT
16 AND REALISTIC SET OF RECOMMENDATIONS, MR. CHAIRMAN, YOU WILL RECALL
17 REPRESENTATIVE KARAN ENGLISH. YOU AND I MET TO DISCUSS THE GOALS OF OUR
18 COMMITTEE AND AMBITIOUS WORK PLAN WE HAD DESIGNED. THROUGH THIS
19 TESTIMONY, I WILL REVIEW OUR COMMITTEE GOALS, AS I DID AT THAT MEETING,
20 DESCRIBE THE POLICY ISSUES WE CONSIDERED AND CONCLUDE MY TESTIMONY
21 WITH OUR "ACTION RECOMMENDATIONS."
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1
2 **GOVERNOR'S CAP ADVISORY COMMITTEE PLANNING GOALS:**

3 OUR CAP ADVISORY COMMITTEE ADOPTED A SET OF FIVE PLANNING GOALS AND
4 OBJECTIVES TO BE USED AS A FRAMEWORK OF DISCUSSION WITHIN OUR THREE
5 WORKING GROUPS (FINANCE/LEGAL, ENVIRONMENT AND INDIAN AFFAIRS) AND TO
6 BE USED AS GUIDANCE FOR THE FULL CAP ADVISORY COMMITTEE. THE
7 COMMITTEE PLANNING GOALS AND OBJECTIVES WERE TO:

- 8
9 (1) PROTECT ARIZONA'S ENTITLEMENT OF COLORADO RIVER WATER TO
10 PROVIDE A SECURE LONG TERM WATER SUPPLY FOR GROWTH AND
11 MAINTENANCE, AND TO ENHANCE THE STATE'S QUALITY OF LIFE.
12 (2) ENSURE THE FINANCIAL INTEGRITY OF THE CAP IN A COST- EFFECTIVE WAY.
13 (3) IDENTIFY HOW AND TO WHAT EXTENT THE CAP MAY BE UTILIZED TO
14 ENHANCE THE STATE'S ENVIRONMENT,
15 (4) UTILIZING CAP WATER TO THE EXTENT PRACTICABLE, TO ACHIEVE THIS
16 OBJECTIVE.
17 (5) UTILIZE CAP AS A WATER SUPPLY SOURCE TO COMPLETE AND IMPLEMENT
18 WATER RIGHTS SETTLEMENTS WITH INDIAN TRIBES IN ARIZONA.
19 (6) UTILIZE CAP WATER TO ACHIEVE WATER MANAGEMENT GOALS IN THE
20 URBAN AND RURAL AREAS OF THE STATE. WE PLACED PARTICULAR
21 EMPHASIS ON PRESERVING THE STATE'S GROUND WATER MANAGEMENT
22 CODE.
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1 MR. CHAIRMAN, I RECALL THAT YOU AND REPRESENTATIVE ENGLISH MADE IT
2 VERY CLEAR AT THE MEETING, THAT IN ORDER TO PRODUCE A CREDIBLE REPORT,
3 IT WOULD NEED TO BE, IN FACT IT MUST BE, REFLECTIVE OF THE DIVERSE
4 CONSTITUENCIES INTERESTED IN OUR "WATER FUTURE" IN ARIZONA.
5 CONGRESSMAN MILLER, MEMBERS OF THE COMMITTEE, I AM PLEASSED TO REPORT
6 THAT OUR COMMITTEE MEMBERSHIP IS CONSISTENT WITH THAT SUGGESTION.
7

8 OUR COMMITTEE REPORT IS REFLECTIVE OF THE THOUGHTS OF A DELIBERATELY
9 DIVERSE MEMBERSHIP, SOME 34 MEMBERS REPRESENTING ARIZONA AGRICULTURE,
10 BUSINESS, LOCAL AND NATIONAL ENVIRONMENTAL INTERESTS, MUNICIPAL
11 OFFICIALS PLUS INDIAN AND LEGISLATIVE INTERESTS. MEMBERSHIP ON THE
12 COMMITTEE WAS ALSO GEOGRAPHICALLY DIVERSE REPRESENTING THE FAR FLUNG
13 ARIZONA COUNTIES OF MARICOPA, PIMA, PINAL, YAVAPAI AND COCONINO.
14

15 ORIGINALLY, SOME MAY RECALL, THE COMMITTEE WAS MADE UP OF 29 MEMBERS
16 BUT WAS EXPANDED TO 34 MEMBERS TO INSURE EVEN GREATER REPRESENTATION
17 BY INTERESTED PARTIES. IN THE EARLY DECADES OF CAP DEVELOPMENT, URBAN
18 AND AGRICULTURAL INTERESTS DOMINATED THE DEBATE. IN RECENT YEARS
19 OTHER CONSTITUENCIES ARE PLAYING A ROLE IN SHAPING CAP POLICY. IN
20 RECOGNITION OF THIS CHANGE, GOVERNOR SYMINGTON INCLUDED SEVERAL
21 MEMBERS OF THE ENVIRONMENTAL COMMUNITY ON THE ADVISORY COMMITTEE. I
22 STRUCTURED THE COMMITTEE PROCESS TO INCLUDE A SEPARATE ENVIRONMENTAL
23 WORKING GROUP.
24
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26

1
2 THROUGHOUT OUR POLICY AND RECOMMENDATION PROCESS WE RECOGNIZED,
3 THAT USING CAP WATER FOR ENVIRONMENTAL ENHANCEMENT IS A WISE AND
4 APPROPRIATE USE OF THE RESOURCE.
5

6 COMMITTEE MEMBERSHIP IS LISTED ON PAGE 32 TO 35 OF THE REPORT. SOME
7 MEMBERS OF THE COMMITTEE HAD SIGNIFICANT EXPERTISE REGARDING THE
8 PROJECT, WHILE OTHERS WERE WELL VERSED IN PUBLIC POLICY ISSUES AND
9 BUSINESS MANAGEMENT STRATEGIES WHICH PROVED TO BE OF GREAT
10 ASSISTANCE. I BELIEVE THEIR EXPERTISE IS REFLECTED IN THE THOUGHT AND
11 DETAIL CONTAINED IN THE FINAL "ACTION RECOMMENDATIONS".
12

13 AS IT RELATES TO THE SPECIFIC "ACTION RECOMMENDATIONS," IT SHOULD BE
14 NOTED THAT THEY ALL WERE SUPPORTED BY A MAJORITY OF THE MEMBERS WITH
15 MOST "ACTION RECOMMENDATIONS" BEING APPROVED UNANIMOUSLY.
16

17 THE WELL ATTENDED PUBLIC AND OPEN COMMITTEE MEETINGS, THE STATEWIDE
18 PUBLIC INVOLVEMENT PROCESS THAT PARALLELED MEETINGS OF THE FULL
19 ADVISORY COMMITTEE AND THREE ACTIVE WORKING GROUPS; FINANCIAL/LEGAL,
20 ENVIRONMENTAL AND THE INDIAN ISSUES WORKING GROUP, WERE THE FORUMS TO
21 IDENTIFY OUR COMMON INTERESTS AND SET ASIDE, WHENEVER POSSIBLE, THE
22 NARROW SELF INTERESTS THAT CAN DIVIDE A PROCESS OF THIS MAGNITUDE.
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1 **ADVISORY COMMITTEE POLICY FORMULATION AND "ACTION**
2 **RECOMMENDATIONS":**
3 NOW TO THE DETAILS OF THE SPECIFIC POLICIES FORMULATED AND THE "ACTION
4 RECOMMENDATIONS" OF THE ADVISORY COMMITTEE.
5
6 OUR GOVERNOR'S CAP COMMITTEE EVALUATED A WIDE RANGE OF ISSUES RELATED
7 TO STATE AND FEDERAL WATER MANAGEMENT POLICIES AND OBJECTIVES PLUS
8 THE OPERATION OF THE CAP. WE THEN ADOPTED "POLICY ISSUES" WHICH FORMED
9 THE BASIS UPON WHICH WE DEVELOPED AND ADOPTED COMMITTEE ACTION
10 RECOMMENDATIONS. THOSE POLICY ISSUES CAN BE FOUND ON PAGES 20-26 OF THE
11 FINAL REPORT.
12
13 **REVIEW OF THE ADVISORY COMMITTEES POLICY ISSUES:**
14 WE CONCLUDED THAT STATE POLICY SHOULD STRIVE TO PROTECT ARIZONA'S FULL
15 COLORADO RIVER ENTITLEMENT TO ASSURE AN ADEQUATE SUPPLY FOR FUTURE
16 ECONOMIC GROWTH.
17
18 WE CONCLUDED THAT IN ANY REFORMULATING OF THE CAP, WATER MANAGEMENT
19 GOALS OF THE ARIZONA GROUND WATER MANAGEMENT ACT SHOULD BE
20 INTEGRATED INTO THE SOLUTION.
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1 OUR NEXT POLICY ISSUE ADDRESSED THE ORIGINAL PURPOSE OF THE CAP AS A
2 REPLACEMENT SUPPLY FOR ARIZONA IRRIGATION. IRRIGATED AGRICULTURE IS THE
3 LARGEST USER OF GROUND WATER IN THE CENTRAL ARIZONA PROJECT SERVICE
4 AREA. ONE OF THE PROJECT'S PRIMARY PURPOSES WAS TO SUPPLY WATER TO THE
5 AGRICULTURAL SECTOR. SINCE NO NEW LAND IS ALLOWED TO BE PUT INTO
6 AGRICULTURAL PRODUCTION, USING EITHER GROUND WATER OR CAP WATER, OUR
7 ALLOTMENT OF CAP WATER IS INTENDED TO BE A SUBSTITUTE OR A "RESCUE"
8 SUPPLY FOR AGRICULTURE, WHICH WILL ALLOW IT TO BE A SUSTAINABLE
9 INDUSTRY IN OUR STATE. IF AGRICULTURE CANNOT UTILIZE CAP WATER BECAUSE
10 THE COST IS TOO HIGH, IT WILL REMAIN ON GROUND WATER. THIS WILL
11 EVENTUALLY DEplete THE STATE'S GROUND WATER SUPPLY WITHIN CENTRAL
12 AND SOUTHERN ARIZONA. FOR POLICY PURPOSES, WE CONCLUDED THAT
13 FINANCIAL ASSISTANCE TO IRRIGATION DISTRICTS, THROUGH LOWER CAP COSTS
14 AND RESTRUCTURED DISTRIBUTION DEBT SHOULD BE PROVIDED, BUT ONLY TO THE
15 EXTENT THERE ARE BENEFITS TO THE STATE, INCLUDING THE STATE'S
16 ENVIRONMENT AND CAWCD'S OTHER WATER CUSTOMERS.

17
18 THE ADVISORY COMMITTEE CONCLUDED THAT A REFORMATTED CAP SHOULD USE
19 CAP WATER FOR ENVIRONMENTAL ENHANCEMENT PURPOSES.

20
21 OUR POLICY REVIEW CONTINUED BY REEMPHASIZING THE IMPORTANCE OF
22 RESERVING CAP WATER SUPPLIES FOR FUTURE MUNICIPAL AND INDUSTRIAL USE IN
23 THE STATE.
24
25
26

1 THE POLICY FORMULATION PROCESS PLACED A VERY HIGH LEVEL OF IMPORTANCE
2 ON THE RESOLUTION OF INDIAN WATER RIGHTS CLAIMS WHERE THOSE CLAIMS
3 INCLUDE CAP WATER AS A CRITICAL COMPONENT OF THEIR RESOLUTION.
4

5 THE FINAL POLICY ISSUE WE REVIEWED RELATED TO USING REVENUE SOURCES,
6 OTHER THAN WATER CHARGES, TO LOWER THE COST OF CAP WATER. WE
7 CONCLUDED THAT INCREASED POWER REVENUES, CONTINUATION OF CERTAIN
8 TIME LIMITED AD VALORUM TAXES, GROUND WATER WITHDRAWAL FEES, AND
9 GENERAL FUND APPROPRIATIONS SHOULD BE REVIEWED.
10

11 **CAP ADVISORY COMMITTEE "ACTION RECOMMENDATIONS"**

12 NOW TO THE "ACTION RECOMMENDATIONS" FOUND ON PAGE 27 TO 31 OF THE
13 REPORT I HAVE SUBMITTED. THE FINANCE/ LEGAL COMMITTEE THAT DIVISED OUR
14 RECOMMENDED PLAN WAS COMPRISED OF SOME OF THE BEST FINANCIAL AND
15 LEGAL EXPERTS IN OUR REGION. THEY CREATED A FINANCIAL MODEL AND
16 COMPREHENSIVE ANALYSIS THAT WAS INSTRUMENTAL IN PRODUCING THE FINAL
17 RECOMMENDATIONS. THOSE RECOMMENDATIONS, IN SUM, WILL ASSURE THAT
18 THE STATE OF ARIZONA, THROUGH IT'S DESIGNEE, THE CENTRAL ARIZONA WATER
19 CONSERVATION DISTRICT, WILL BE ABLE TO MEET ITS FINANCIAL OBLIGATIONS TO
20 REPAY THE UNITED STATES GOVERNMENT. THESE FINANCIAL RECOMMENDATIONS
21 ARE FAR REACHING, RANGING FROM A "TARGET PRICING" MECHANISM TO AN
22 INCREASED USE OF PRICING INCENTIVES TO CAUSE AN INCREASE IN THE USE OF
23 CENTRAL ARIZONA PROJECT WATER.
24
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1 THE REPORT CONTAINS A STRONG RECOMMENDATION THAT CAWCD AND THE
2 ARIZONA DEPARTMENT OF WATER RESOURCES JOINTLY DEVELOP A PROGRAM FOR
3 INTRASTATE MARKETING OF CAP WATER AND STUDY THE FEASIBILITY OF
4 ARRANGEMENTS IN WHICH CALIFORNIA AND NEVADA TAKE ADVANTAGE OF
5 UNUSED ENTITLEMENT AND CANAL CAPACITY TO STORE WATER IN ARIZONA IN
6 EXCHANGE FOR THE RIGHT TO INCREASE COLORADO WATER DIVERSIONS IN THE
7 FUTURE. THIS TYPE OF PROGRAM SHOULD BE BENEFICIAL TO ARIZONA AND TO THE
8 REGION BECAUSE IT WOULD PROVIDE A LONG-TERM SOURCE OF WATER TO A
9 NEIGHBORING STATE WITHOUT REDUCING ARIZONA'S COLORADO RIVER
10 ENTITLEMENT. THIS STRATEGY WOULD PROVIDE ADDITIONAL UTILIZATION OF THE
11 PROJECT, THEREBY REDUCING COSTS FOR ARIZONA CONTRACTORS AND
12 SUBCONTRACTORS.

13
14 OTHER "ACTION RECOMMENDATIONS" RECOGNIZED THAT OUTSTANDING INDIAN
15 WATER RIGHTS CLAIMS ARE AN INTEGRAL PART OF BOTH THE CAP PROBLEM AND
16 IT'S SOLUTION. IT IS IN THE BEST INTEREST OF THE INDIAN COMMUNITIES, THE
17 FEDERAL GOVERNMENT AND THE STATE, THAT WE RECOMMEND THE FEDERAL
18 GOVERNMENT MAKE SETTLEMENT OF OUTSTANDING WATER RIGHT CLAIMS IN
19 ARIZONA, A TOP PRIORITY. CURRENTLY, WE ARE PREPARING AN AGGRESSIVE
20 ARIZONA LEGISLATIVE PACKAGE. THIS PACKAGE IS DESIGNED TO QUICKLY
21 IMPLEMENT SEVERAL OF OUR RECOMMENDATIONS. ONE IMPORTANT ELEMENT OF
22 THE LEGISLATIVE PACKAGE WILL ENABLE ARIZONA TO DO ITS PART IN RESOLVING
23 OUTSTANDING INDIAN WATER RIGHTS CLAIMS BY CREATING AN OFFICE OF INDIAN
24 SETTLEMENT FACILITATION. I HAVE ASKED SECRETARY OF INTERIOR BRUCE
25 BABBITT AND BETSY RIEKE OF THE INTERIOR DEPARTMENT TO HELP IN THE
26

1 EFFORT TO RESOLVE OUTSTANDING INDIAN WATER RIGHT CLAIMS. I APPEAL TO
2 YOU, CONGRESSMAN MILLER, AND YOUR COLLEAGUES TO HELP RESOLVE THE
3 SEVERAL OUTSTANDING INDIAN CLAIMS THAT STILL REMAIN.
4

5 THE COMMITTEE ADDRESSED ENVIRONMENTAL ISSUES IN THIS STATE AND MADE
6 RECOMMENDATIONS THAT, I BELIEVE, PUT OUR STATE IN THE FOREFRONT OF USING
7 CAP WATERS TO BENEFIT THE ENVIRONMENT, TO BENEFIT NATURAL HABITATS AND
8 TO ENHANCE OUR STATE'S NATURAL RESOURCES. WE CONCLUDED THAT WATER
9 ALLOCATIONS OF BETWEEN 50,000 AND 150,000 ACRE FEET BE STUDIED AND
10 SERIOUSLY CONSIDERED FOR ENVIRONMENTAL ENHANCEMENT PROJECTS. A
11 LARGE AMOUNT OF WATER RESERVED FOR ENVIRONMENTAL ENHANCEMENT
12 COULD BE DEDICATED TO THE COLORADO MAINSTEM. A TASK FORCE SHOULD BE
13 NAMED TO DISCUSS THE ECONOMIC, ENVIRONMENTAL AND POLITICAL
14 CONSEQUENCES OF THE ALLOCATION OF CAP WATER FOR ENVIRONMENTAL
15 ENHANCEMENTS WITH APPROPRIATE REPRESENTATIVES OF THE FEDERAL
16 GOVERNMENT AND THE COLORADO RIVER BASIN STATES.
17

18 IN OTHER ENVIRONMENTAL RECOMMENDATIONS, WE CONCLUDED THE STATE AND
19 CAWCD SHOULD AGGRESSIVELY STUDY THE POTENTIAL BENEFITS FROM
20 ENVIRONMENTAL, FISH AND WILDLIFE USE, NOT ONLY TO PRODUCE BENEFITS IN
21 THE FORM OF NATURAL RESOURCE ENHANCEMENT BUT ALSO BECAUSE SUCH USES
22 MAY POTENTIALLY REDUCE REPAYMENT OBLIGATIONS ON THE PROJECT.
23

24 TO COMPLETE THE HISTORIC ENVIRONMENTAL PACKAGE, WE CONCLUDED THAT AN
25 ENVIRONMENTAL TRUST FUND SHOULD BE ESTABLISHED IN ARIZONA, WITH AN
26

1 ARIZONA ADVISORY BOARD MADE UP OF A CROSS SECTION OF OUR CITIZENS.
2 FINALLY, ALTERNATIVE FUNDING SOURCES SHOULD BE EXPLORED, INCLUDING,
3 AMONG OTHERS, A SUR- CHARGE ON UNDERGROUND STORAGE AND RECOVERY
4 PROJECTS USING CAP WATER.
5

6 THAT, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, IS AN OVERVIEW OF THE
7 FINAL REPORT AND "ACTION RECOMMENDATIONS" OF THE GOVERNOR'S CENTRAL
8 ARIZONA PROJECT ADVISORY COMMITTEE. WE INTEND TO MOVE FORWARD, IN THE
9 UPCOMING ARIZONA LEGISLATIVE SESSION IN JANUARY, WITH A COMPREHENSIVE
10 LEGISLATIVE PACKAGE THAT WILL POSITION ARIZONA TO DO OUR PART TO DEAL
11 WITH THE CHALLENGES FACING THE CENTRAL ARIZONA PROJECT. I TRUST THAT
12 AFTER YOUR REVIEW OF THIS MATTER YOU WILL JOIN WITH ARIZONA INTERESTS
13 TO ASSURE THE LONG TERM VIABILITY OF THE CENTRAL ARIZONA PROJECT.
14

15 THANK YOU FOR THIS OPPORTUNITY.
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Mr. MILLER. Rita, welcome to the committee, and also publicly, thank you for your time and effort that you have spent on this in meeting with the committee and committee staff on this issue.

Ms. PEARSON. Thank you, Mr. Chairman. It has been my pleasure.

STATEMENT OF RITA P. PEARSON

Ms. PEARSON. Mr. Chairman, distinguished Members of Arizona's congressional delegation, thank you for the opportunity to speak here today on behalf of the State of Arizona. My name is Rita Pearson, and I serve as Director of the Department of Water Resources.

My comments today represent the views of the State and have been endorsed by Governor Symington.

Mr. Chairman, you are going to hear testimony from a number of witnesses, and I appreciate the time constraints, so I would like to request that my written comments be submitted for the record, and I will briefly summarize the key points of my testimony.

I would like to focus on the overall view of groundwater management policies in the State, because the CAP is an integral part of the success in achieving the goals of groundwater managements.

First, I would like to briefly summarize Arizona's water supply situation. Then I would like to talk about the steps the State has taken to conserve our precious groundwater supplies. Finally, I would like to talk about the crucial role that the water supplies, particularly those brought by the CAP into southern Arizona, play in our water management goals.

As you very well know, I am sure after your tour yesterday, Mr. Chairman, Arizona is an arid State. We live in a desert. In average years, water usage in Arizona is three times the available surface water supply. The shortfall is made up by pumping groundwater. Arizona's total water demand is in the neighborhood of more than 6 million acre-feet.

As a result of the significant overdrafting in certain parts of the State, we experienced some dramatic negative environmental consequences. In some places the water tables have been lowered by as much as 600 feet. Additional negative consequences include earth fissures, migration of contamination, and of course most importantly, reduction in surface water flows as a result of groundwater pumping which impact our riparian habitats across the State.

Because our surface water supplies are limited, it is extremely important that we ensure we have adequate supplies for droughts and that we ensure the preservation of groundwater for future generations. It is impossible to base a sound economy and a good quality of life on nonrenewable resources.

To a great extent, Arizona's economy and life-style was established on nonrenewable groundwater supplies, but as early as the 1940s when we first began talking about the CAP, Arizonans began to recognize the need to supplement the supply with surface water.

We have secured our Colorado River entitlement through United States Supreme Court decisions, Federal acts and interstate agreements. We have, of course, 2.8 million acre-feet of Colorado River water, of which 1.5 million acre-feet is brought into the central and southern parts of our State annually through the CAP.

In 1980, under the direction of then Governor Bruce Babbitt, Arizona adopted the groundwater management code. The recognition then was that the CAP water would be replacing the pumping of groundwater. We have done much to ensure that groundwater is preserved through conservation policies that are now managed through the Department of Water Resources.

Arizona's ground water management code has been recognized as one of the most creative and innovative and comprehensive management codes in the country. It has two primary goals. Again, to control the severe overdraft of groundwater in our State, and it provides a means to reallocate the water as the changing demands for water in Arizona change with growth and development.

The law focuses on two primary areas of regulation. First, it creates active management areas (AMAs). We are sitting in one right now, the Phoenix active management area. There are four in the State. Three of them are serviced by the CAP and three of them are subject to extensive regulation and they are home to 70 percent of the State's population and 80 percent of the State's water usage.

The AMAs are required to achieve safe yield by the year 2025. That means that we have to use no more groundwater than we are able to recharge annually to natural and artificial means. In the Pinal AMA, the local goal is to extend the life of the economy as long as feasible, consistent with the need to preserve future water supplies for nonagricultural uses.

Active management areas are subject to a wide range of regulatory and incentive programs which will result in reduced reliance on overdraft groundwater. The foundation of these programs is a series of five decade-long management plans which ratchet down the available supply of groundwater for all our water users.

The focus on the management plan is water conservation. But another significant component of the code prohibits new farmland from coming into production to replace urbanized or retired land. And since 1980, between 3,000 and 5,000 acres of farmland has been retired annually in Arizona.

Water conservation programs are included for agricultural, municipal and industrial users, and there are many new and very innovative conservation programs being implemented across the State and not just in the AMAs. There has been a very high voluntary public acceptance of conservation methods.

While conservation is a critical management tool, we also have to rely on the availability of CAP water. CAP is intending to serve as the principal alternative renewable water supply in the AMAs. To facilitate the use of CAP water for municipal purposes, the State has adopted a promise to promote recharge of groundwater that permits the storage of CAP water underground for later recovery.

The State has also passed laws that establish augmentation authorities which are responsible for recharging CAP and other water supplies to offset any groundwater mined by its members.

The code's success clearly envisions that agriculture will voluntarily convert from groundwater to CAP water and for this reason alone the under-utilization of CAP water by the agricultural community is an issue of significant State concern.

The Central Arizona Project will play a crucial role in achieving the goal of preserving the State's groundwater. And while the provisions of that code take us a long way towards safe yield, it would be impossible to meet those goals without bringing CAP water into the State.

To place the importance of CAP water in perspective, keep in mind that Arizona's CAP water is the biggest renewable water source in the State and will provide more water to central Arizona than the Salt and Gila Rivers combined.

The CAP plays a number of vital water management roles. It provides a non-groundwater source of supply to meet existing agricultural uses and future development of M&I. It provides new sources for settling water claims for the State's Indian communities. It has become recognized as a need to provide water for environmental enhancement purposes.

Mr. DeMichele has talked about the Advisory Committee's recommendations. I would like to focus on two of them which the State has a very direct interest in. The first is a recommendation by the committee to expand the recharge demonstration project that will be spearheaded by the State, CAWCD, Metropolitan Water District, and Nevada.

Over the last year, 100,000 acre-feet of CAP water has been stored in Arizona's aquifers. This program has been recommended to be expanded to help assist California and Nevada meet the immediate needs for water.

While excess Colorado River supplies are available, the groundwater recharge permits Colorado River water to be stored in Arizona for future use by California and Nevada. Recharging excess CAP water in Arizona will provide us an ability to rely on stored water to improve our Colorado River water entitlement.

Any solution would have to take into account Arizona's priority on the river in times of shortage. By statute, shortages in the three lower division States must first be applied to CAP. We are concerned about the reliability of Arizona's future supplies, and sharing the shortages must be addressed in developing a solution in California and Nevada's water needs.

In addition to the recommendations for expanded water banking program, the Advisory Committee also recommended the creation of an environmental trust fund utilizing water across the State. The CAP is, of course, an integral part of any environmental trust fund water commitment.

The State's commitment to environmental enhancement projects is well recognized. In 1990 through a citizen initiative there was the creation of the Heritage Fund. In 1992, \$20 million was committed from State lottery funds for environmental enhancement programs that were spent through the Arizona State Parks Department and through the Arizona Game and Fish Commission. The Governor's CAP Advisory Committee recommended the creation of a trust fund for the maintenance, enhancement, and restoration of aquatic wetlands and riparian habitat.

We have been meeting with environmental groups, water users and the public to develop the guts of a proposal which would be introduced in our State legislature next session.

In closing I would like to say we are optimistic about the future of this State to manage its groundwater, to make sure we have a secure supply of surface water supplies for generations to come. We believe that solutions can be developed within the existing legal and institutional framework, and we would like to thank you for the opportunity to express the State's position and your support of the CAP.

Thank you, Mr. Chairman.

Mr. MILLER. Thank you.

[Prepared statement of Ms. Pearson follows:]

Testimony of
STATE OF ARIZONA
DEPARTMENT OF WATER RESOURCES
before the
UNITED STATES HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
Honorable George Miller, Chairman
Presented by Rita P. Pearson, Director
DEPARTMENT OF WATER RESOURCES
Phoenix, Arizona
December 10, 1993

Chairman Miller, members of the Subcommittee on Oversight and Investigations and distinguished members of Arizona's Congressional Delegation, thank you for the opportunity to testify on behalf of the State of Arizona. My name is Rita Pearson and I serve as Director of the Arizona Department of Water Resources. My comments today represent the views of the state and have been endorsed by Governor Symington.

Mr. Chairman, recognizing the limited amount of time you have today and the number of witnesses yet to testify, I would like to request that my written remarks be submitted for the

record and that I make brief oral remarks touching on the key points of my written testimony.

It is my pleasure to speak today on behalf of the State of Arizona, a state that has distinguished itself as a leader in the area of water management policies.

The purpose of my testimony today is twofold. First, I would like to outline for you the steps the state has taken to conserve our non-renewable groundwater supplies. And second, I would like to describe the crucial role renewable surface water supplies carried by the Central Arizona Project will play in achieving the goal of preserving the state's groundwater.

As early as 1980, under the direction of then Governor Bruce Babbitt, Arizona enacted innovative and comprehensive legislation designed to preserve the state's limited groundwater supplies. This legislation, known as the Groundwater Management Code (Code), has two principal goals. First, it strives to control the severe overdraft of groundwater in our state which is estimated to be as high as two million acre feet annually. Second, it provides a means to allocate the state's limited groundwater resources to most effectively meet the changing needs of a state that is moving away from agricultural water use towards increased municipal water demands.

To make the case for a stringent groundwater code, one doesn't need to look far. In average years, water usage in Arizona is three times the available surface water supply and that rate increases dramatically in dry years. The shortfall is made up by pumping groundwater which

is not an annually renewable supply. Over-reliance on groundwater is risky. Droughts are a fact of life in the desert which is where over 70% of Arizona's population resides. Despite times of excessive rain, tree ring studies have shown us that we can count on prolonged periods of drought in our state. From an environmental perspective, reliance on groundwater supplies has lowered water tables in some areas of the state by as much as 600 feet, causing a number of negative consequences including land subsidence and earth fissures, water quality problems, and in some areas, a reduction in stream flows with corresponding impacts on riparian habitats. Preserving our groundwater supplies to insure that they are available for use in times of drought has both economic and environmental benefits.

The first step towards reducing groundwater withdrawals under the Code was the creation of three urban Active Management Areas (AMAs) in the Phoenix, Tucson and Prescott metropolitan areas. The management goal for the AMAs is to achieve "safe yield" by the year 2025, that is, annual groundwater withdrawals may not exceed natural and artificial recharge in the AMA. In the Pinal AMA, where a primarily agricultural economy exists, the goal is to extend the life of that economy as long as feasible, consistent with the need to preserve future water supplies for non-agricultural uses.

Active Management Areas are subject to a wide range of regulatory and incentive programs which will result in reduced reliance on overdrafted groundwater. The foundation of these programs is a series of five decade-long management plans which ratchet down the available supply of groundwater for all water users.

The focus of the management plan in each AMA is water conservation. Conservation programs are included for agricultural, municipal and industrial users. Agriculture is currently the largest user of groundwater in the AMAs. These management plans establish a water duty for each farm which is the per-acre amount of water it is reasonable to apply in order to grow the crops historically grown, assuming the farmer implements conservation practices. Using this standard, the second management plan calls for a reduction in water duties of between 15 to 20 percent over the next decade.

If any groundwater is used on a farm in an AMA the Code's conservation limits apply to all the water sources used on that farm, including CAP water. This provision guarantees that all water resources in the AMAs will be used efficiently. Another significant provision of the Groundwater Management Code prohibits new farm land from coming into production to replace farm land that has been urbanized or retired. Since 1980, agricultural land in the AMAs has been retired at a rate of between three thousand to five thousand acres per year. It is clear that this provision will result in reduced groundwater use in the AMAs.

The Code's management plans also require mandatory conservation from the municipal and industrial water use sectors. For municipal providers, gallons per capita per day target levels are established. For industrial uses, including golf courses, power plants, mines, feedlots and dairies, the plans require the use of the latest commercially available conservation technology. Progress in municipal and industrial conservation has been impressive. Many new, innovative conservation programs are being implemented and voluntary acceptance by the public has been

high. It is noteworthy that the conservation message is a permanent one; not simply a response to emergency drought conditions. Conservation is a way of life in Arizona, this was emphasized when the legislature adopted a statewide low volume plumbing fixture code which becomes effective next month.

The management plans also include water quality studies, supply augmentation and reuse, and conservation assistance. To implement the augmentation and conservation assistance programs, the Department of Water Resources administers a grant program funded by a fee levied on all groundwater withdrawals within the AMAs.

Conservation is a critical water management tool but achievement of the goal of "safe yield" in the Phoenix, Tucson and Prescott AMAs and a reduction in groundwater overdraft in the Pinal AMA is directly dependent on the availability of CAP water. It is intended to serve as the principal alternative renewable water supply in the AMAs. CAP water will be used in the municipal sector for assured water supply purposes to insure that water is of sufficient quality and quantity to sustain proposed development for 100 years.

In order to facilitate the use of CAP water for municipal purposes, the state has adopted a program to promote the recharge of groundwater. This program permits the storage of CAP water underground for later recovery. Another series of laws establishes augmentation authorities responsible for recharging CAP and other water supplies to offset any groundwater mined by its members. Agricultural use of CAP water is a key component to achieving the

state's groundwater management goals. While conservation and retirement of agricultural land will reduce overall water consumption, groundwater withdrawals by agriculture will continue to greatly exceed the safe yield of the AMAs. The Code's success clearly envisions agriculture's voluntary conversion from groundwater to CAP water. For this reason alone, the underutilization of CAP water Arizona is currently experiencing in the agricultural sector is an issue of significant state concern.

The provisions of the Groundwater Code will take Arizona a long way towards meeting the water management goals of the state. However, it would be impossible to meet these goals without the full utilization of the Central Arizona Project. The CAP plays a number of vital water management roles: it provides a non-groundwater source of supply to meet existing agricultural uses and future municipal and industrial development; it provides a new source of supply for settling the water claims of the state's Indian communities; and, it has become recognized as a means to provide water for environmental enhancement purposes.

One issue before you today is the need for assurance that Arizona can meet the financial obligations incurred during the development of the Project. In January of this year, Governor Symington called together the Governor's Central Arizona Project Advisory Committee to address this issue and develop a long-term plan to manage the CAP and protect Arizona's water resources in an economically and environmentally sound manner. The Committee's comprehensive series of recommendations describe the opportunities afforded to Arizona as we tackle the future use and funding of the CAP. Mark DeMichele has described the conclusions

of this Committee in previous testimony. We, as a state, are now working with the Central Arizona Water Conservation District (CAWCD) and the state legislature to develop a legislative proposal which includes the recommendations of the Committee requiring legislative enactment. A number of the Committee's recommendations were incorporated into CAWCD's "target pricing" plan for CAP water, a plan wholly endorsed by the state.

I would like to focus on two particular recommendations of the Governor's CAP Advisory Committee: the recommendation regarding banking of water to assist California and Nevada in meeting their immediate needs for additional water and the recommendation to create an Environmental Trust Fund.

For several years now, Arizona has actively participated in discussions with California and Nevada as well as other Colorado River Basin states on matters related to the allocation and use of Colorado River supplies. We are not unlike Nevada in that our demand for water will grow into our full Colorado River entitlement. Our projections show that future municipal and industrial demand, combined with Indian water settlements, will fully utilize our CAP entitlement within the Project's repayment period. Nevertheless, we are willing to work with our sister states to find a mutually beneficial solution to California's and Nevada's immediate water needs, keeping in mind that any solution would have to take into account Arizona's priority on the River in times of shortage. By statute, shortages in the three lower division states must first be applied to the CAP. We are concerned about the reliability of Arizona's future supplies. Sharing of shortages must be addressed in developing any solution to Nevada's

and California's needs.

One solution being discussed is modeled after the current demonstration recharge project jointly developed by Arizona, Nevada, the Metropolitan Water District of Southern California and CAWCD. When excess Colorado River supplies are available, this groundwater recharge project permits Colorado River water to be stored in Arizona for future use by Nevada and California. The Governor's CAP Advisory Committee has proposed that this concept be expanded further. By recharging excess CAP water in Arizona, we will be able to rely on this stored water to improve the reliability of our Colorado River entitlement in shortage periods.

The State of Arizona is committed to protecting and enhancing our environment. In 1990, the state, through a citizen's initiative, established the state Heritage Fund. This fund is financed through a share of the proceeds raised by the state's lottery revenues. In 1992, the Heritage Fund provided \$20 million for environmental enhancement programs through the Arizona State Parks Department and the Arizona Game and Fish Commission. Additional state programs dedicated to the protection, preservation and enhancement of the State's natural resources include the State Lakes Improvement Fund and the Arizona Statewide Comprehensive Outdoor Recreation Plan.

To complement the Heritage Fund efforts, the Governor's CAP Advisory Committee recommended the creation of an Environmental Trust Fund for the maintenance, enhancement and restoration of aquatic, wetland and riparian habitats. The Department, on behalf of the

Advisory Committee, has begun meeting with representatives of the environmental community, the water community and the public to develop a proposal to be introduced in the upcoming legislative session.

The State of Arizona and the Department of Water Resources are committed to continue to lead the nation in implementing innovative water management strategies, to strive to use water efficiently to maximize the beneficial use of this limited resource, and to enhance and protect the environment so important to our Arizona culture.

In closing let me say that we in Arizona are optimistic. Optimistic about the future of our state and optimistic that we are on a course to solve issues related to the Central Arizona Project. Solutions can be developed within the existing legal and institutional foundations.

Mr. Chairman, thank you for the opportunity to express the state's view on the CAP and your continuing support of this Project which is so vital to Arizona's future. I would like to repeat the state's commitment to work with Congress, the Bureau of Reclamation and CAWCD to ensure the success of the Central Arizona Project.

Mr. MILLER. Mr. Goddard, welcome to the committee.

STATEMENT OF SAMUEL GODDARD

Mr. GODDARD. Thank you, Mr. Chairman. You have been welcomed by experts before, but I would like to add the welcome of the CAWCD to the land of kitty litter and cactus, which as you noted yesterday is considerably dry.

Arizona and CAP in particular have enjoyed a long and mutually beneficial working relationship with this congressional committee. As a matter of fact, I testified before Wayne Aspinall 26 years ago on the same subject. I think the only ancient—as a very young man, Congressman Stump was involved in State government then. I do thank you for coming here to Arizona so that you can hear firsthand about the importance of the Central Arizona Project to Arizona, and the support that Central Arizona Project enjoys from the State and the constituency, and all the wonderful volunteers that have come together to offer their expertise. It's very, very important to you. I am celebrated for the brevity of my statements. I am only going to read this so that I can say enough.

However, I would appreciate your indulgence in accepting it in written form from us.

The most important message I have to relay to you is, and without cluttering it up with all the infinite details that you are forced to contend with, but our important message is the Central Arizona Water Conservation District can and will meet its obligations under its master repayment contract with the United States.

The first payment, due on January 15, 1994, has already been made through an advanced payment credit. As a matter of fact, it went over into the second year also.

We have more than \$160 million in unencumbered reserves. With the expectation of tax payments, power revenues, and water revenues, we believe we can continue to meet our obligations, even if we experience more adverse circumstances than one would reasonably expect to occur, which have been delineated carefully before.

The CAP is an integral part of the State's groundwater conservation and management plan. You will hear more about this issue, much more, from other speakers.

The CAP is not a traditional Reclamation project, as has been said, it does not develop new irrigated lands. CAP water can only be used to put water on historically irrigated lands. It provides only a replacement or substitute supply of water, not an additional or supplemental supply.

Each acre-foot of CAP water that is delivered for agricultural use results in an acre-foot reduction of groundwater use. The agricultural CAP allocation is of a lower priority than the municipal, industrial, or Indian allocation.

The agricultural allocation is for a dwindling amount of water that is reduced as M&I and Indian needs grow. The agricultural allocation must be for less. These conditions are part of the CAP authorization.

The water supply allocation and the contractual relationship are included and are further embodied in the State's Groundwater Management Act. There has been much discussion regarding the

CAP agricultural subcontractors' inability to use and pay for all of the CAP water that has been allocated to them. The provision of their subcontracts, commonly referred to as the take-or-pay provision, provides they must take the fixed operation and maintenance cost associated with all available water, even if the water is not delivered.

It has been erroneously assumed that the difficulties experienced by your agricultural subcontractors mean that the CAP in general, and CAWCD in particular, is not financially stable. Nothing could be farther from the truth.

We are in the process of implementing a plan which addresses this take-or-pay issue. The plan will relieve irrigation districts of the crushing burden and make a partial water supply available at costs competitive with groundwater.

As a result, more CAP water and less groundwater will be used by agriculture.

The overall increase in CAP water use will provide a broader base for spreading O&M costs. This results in a lower base cost for each class of CAP water use, M&I, agriculture, and Indian, and allows CAWCD to establish five-year target prices for its M&I and Indian contractors to assist them in their budget planning process.

As a further aspect of the plan, CAWCD will use its existing reserves to cushion rate shock to its M&I contractors who are the major contributors of tax revenues. While this plan won't solve all of the irrigation districts' financial problems, it gives them the most certainty of being able to meet their other financial obligations.

Our intent is to implement this plan by early January and hopefully forestall the financial collapse of the irrigation districts while further long-term solutions are developed. In addition, the plan requires the agricultural subcontractors to agree to waive their rights to their long-term CAP entitlements, and release that water supply to be potentially available for Indian settlements, further M&I use, and possibly environmental uses.

As part of the written record, we have provided additional detail regarding our plan. Our plan does not purport to resolve all of the issues, but provides immediate relief from critical problems and a sound basis for moving forward for all CAP subcontractors.

The Bureau of Reclamation has just this week responded to CAWCD by expressing their desire to move ahead with resolution of outstanding issues using the CAWCD plan as a starting point. You have heard from GAO here today. While we might put a slightly different spin on the report, we have long acknowledged the major issues.

The project cost is unclear, and our repayment obligation is in dispute.

We have been trying for two years to obtain a sound report from Reclamation identifying what has been spent and what we are obligated to repay. The United States has indicated a need for substantial amounts of CAP water for Indian settlements, and has been unable or unwilling to identify a precise amount.

Neither are they willing to identify how they intend to pay CAWCD, the project operator, while they hold and use that CAP

water. The GAO report suggests there is uncertainty associated with CAP's financial future. The future is uncertain for everybody.

But a major part of CAP's uncertain future stems from the United States' failure to define project costs and to define the United States' role as a customer, beneficiary of the CAP. Our analysis of CAWCD's financial health is somewhat different from GAO. We have made assumptions that represent a realistic worst case and have also evaluated a more realistic, likely scenario.

We believe that in either case we will be able to meet our repayment obligations, operate the project, and remain financially sound. The plan we have developed has the support of our subcontractors.

The concerns about Federal expenditures exceeding the repayment obligation or the authorized project ceiling—project cost ceiling are important financial issues for the United States. CAWCD does not expect nor want the Bureau of Reclamation to exceed these spending limits. We support their efforts to properly identify these limits and encourage them to stop incurring construction obligations if necessary.

If significant activities remain uncompleted, then new arrangements mutually agreeable to all parties can be made to complete any necessary activities.

You are well aware of the Governor's Advisory Committee on CAP issues. They have reported separately to you today. Several members of the CAWCD board were committee members. However, the board has been entrusted by the voters with the responsibility of administering the project, and we take this responsibility very seriously.

The committee made several thoroughly considered recommendations. We are working closely with the Department of Water Resources to develop State legislation as needed to implement these recommendations, including the development of an environmental trust fund.

Regarding commitment of some CAP water for environmental purposes, the CAWCD has adopted a policy recommending that 50,000 acre-feet of CAP water be reserved for environmental purposes. In short, the current plans of CAWCD are consistent with the committee recommendations.

Finally, the CAWCD is the entity responsible for repayment and for operation and maintenance of the Central Arizona Project. We are financially stable, and have sound plans to remain that way as the CAP grows into a fully developed project.

We intend to meet our contractual obligations to the United States. We do not intend to seek any congressional legislation to relieve us of these obligations.

Mr. Chairman, I am very proud of the fact that our board is here, all of them, even from the far parts of the earth they have come. I am very proud to be here with the mayor of my former town who made a very eloquent presentation. However, he didn't even mention that magnificent legislation you just passed called NAFTA, which is going to change the dynamics of southern Arizona considerably, and reflect on our water use.

Thank you very much.

[Prepared statement of Mr. Goddard follows:]

**CENTRAL ARIZONA PROJECT OVERSIGHT HEARINGS
DECEMBER 10, 1993
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL RESOURCES**

**STATEMENT BY SAMUEL GODDARD
PRESIDENT, BOARD OF DIRECTORS
CENTRAL ARIZONA WATER CONSERVATION DISTRICT**

Let me first take this opportunity to welcome you, Congressman Miller, as Chairman of the House Committee on Natural Resources, to our state of Arizona. Arizona, and CAP in particular, has enjoyed a long and mutually beneficial working relationship with this congressional committee, beginning when Wayne Aspinall and later Mo Udall served as chairman of the Interior and Insular Affairs Committee. I thank you for coming here to Arizona to hear first hand about the importance of CAP to Arizona and the support that the Central Arizona Project enjoys in this state.

The most important message I have to relay to you is: the Central Arizona Water Conservation District can and will meet its obligations under its Master Repayment Contract with the United States. The first payment, due on January 15, 1994, has already been made through an advance payment credit. We have more than \$160 million in unencumbered reserves. With the expectation of tax payments, power revenues, and water revenues, we believe we can continue to meet our obligations even if we experience more adverse circumstances than one would reasonably expect to occur.

The CAP is an integral part of the state's groundwater conservation and management plan. You will hear more about this issue from other speakers.

The CAP is not a traditional Reclamation project. It does not develop new irrigated lands. CAP water can only be used to put water on historically irrigated lands. It provides only a replacement or substitute supply of water, not an additional or supplemental supply. Each acre-foot of CAP water that is delivered for agricultural use results in an acre-foot reduction of groundwater use. The agricultural CAP allocation is of a lower priority than the municipal and industrial or Indian allocation. The agricultural allocation is for a dwindling amount of water that is reduced as M&I and Indian needs grow. These conditions are part of the CAP authorization, the water supply allocation, and the contractual relationships, and are further embodied in the state's Groundwater Management Act.

There has been much discussion regarding the CAP agricultural subcontractors' inability to use and pay for all of the CAP water that has been allocated to them. A provision of their subcontracts commonly referred to as the "take or pay" provision provides that they must pay the fixed operation and maintenance cost associated with all available water even if the water is not delivered. It has been erroneously assumed that the difficulties experienced by our agricultural subcontractors mean that the CAP in general, and CAWCD in particular, is not financially stable. Nothing could be further from the truth. We are in the process of implementing a plan which addresses this "take or pay" issue. The plan will relieve the irrigation districts of this crushing burden and make a partial water supply available at costs competitive with groundwater. As a result, more CAP water and less groundwater will be used by agriculture. The overall increase in CAP water use will provide a broader base for spreading O&M costs. This results in a lower base cost for each class of CAP water use, M&I, agriculture, and Indian, and allows CAWCD

to establish 5-year target prices for its M&I and Indian contractors to assist them in their budget planning process. As a further aspect of the plan, CAWCD will use its existing reserves to cushion rate shock to its M&I subcontractors who are the major contributors of tax revenues. While this plan won't solve all of the irrigation districts' financial problems, it gives them more certainty of being able to meet their other financial obligations. Our intent is to implement this plan by early January and, hopefully, forestall the financial collapse of the irrigation districts while further long-term solutions are developed. In addition, the plan requires the agricultural subcontractors to agree to waive their rights to their long term CAP entitlements and release that water supply to be potentially available for Indian settlements, further M&I use and, possibly, environmental uses.

As part of the written record, we have provided additional detail regarding our plan. Our plan does not purport to resolve all of the issues but provides immediate relief from critical problems and a sound basis for moving forward for all CAP subcontractors. The Bureau of Reclamation has, just this week, responded to CAWCD by expressing their desire to move ahead with resolution of outstanding issues using the CAWCD plan as the starting point.

You have heard from GAO here today. While we might put a slightly different spin on the report, we have long acknowledged the major issues. The project cost is unclear and our repayment obligation is in dispute. We have been trying for two years to obtain a sound report from Reclamation identifying what has been spent and what we are obligated to repay. The United States has indicated a need for substantial amounts of CAP water for Indian settlements

but has been unable or unwilling to identify a precise amount. Neither are they willing to identify how they intend to pay CAWCD, the project operator, while they hold and use that CAP water. The GAO report suggests there is uncertainty associated with CAP's financial future. The future is uncertain for all of us. But a major part of CAP's uncertain future stems from the United States' failure to define project costs and to define the United States' role as a customer/beneficiary of the CAP.

Our analysis of CAWCD's financial health is somewhat different from GAO. We have made assumptions that represent a realistic "worst case" and have also evaluated a more realistic "likely scenario". We believe that in either case we will be able to meet our repayment obligations, operate the project, and remain financially sound. The plan we have developed has the unanimous support of our subcontractors.

The concerns about federal expenditures exceeding the repayment obligation or the authorized project cost ceiling are important financial issues for the United States. CAWCD does not expect nor want the Bureau of Reclamation to exceed these spending limits. We support their efforts to properly identify these limits and encourage them to stop incurring construction obligations if necessary. If significant activities remain uncompleted, then new arrangements, mutually agreeable to all parties, can be made to complete any necessary activities.

You are well aware of the Governors Advisory Committee on CAP issues. They have reported separately to you today. Several members of the CAWCD Board were committee members.

However, the Board has been entrusted by the voters with the responsibility of administering the project and we take this responsibility very seriously. The committee made several thoroughly considered recommendations. We are working closely with the Department of Water Resources to develop state legislation as needed to implement these recommendations, including the development of an Environmental Trust Fund. Regarding commitment of some CAP water for environmental purposes, the CAWCD Board has adopted a policy recommending that 50,000 acre-feet of CAP water be reserved for environmental purposes. In short, the current plans of CAWCD are consistent with the committee recommendations.

Finally, the CAWCD is the entity responsible for repayment and for operation and maintenance of the Central Arizona Project. We are financially stable and have sound plans to remain that way as the CAP grows into a fully developed project. We fully intend to meet our contractual obligations to the United States. We do not intend to seek any congressional legislation to relieve us of these obligations.

GODDARD.STM

CENTRAL ARIZONA WATER CONSERVATION DISTRICT CENTRAL ARIZONA PROJECT RESTRUCTURING PROGRAM

The Central Arizona Water Conservation District's ("CAWCD") Central Arizona Project ("CAP") repayment adjustment program was described in a memorandum to the Board of Directors from its General Manager dated October 7, 1993. See Exhibit 1. It was approved by the Board that same day. However, it took many months of public study and discussion to develop, and was preceded by similar studies and discussions undertaken by the Governor's Central Arizona Project Advisory Committee. That Committee reached essentially the same conclusions and made essentially the same recommendations as CAWCD. Representatives of the United States Bureau of Reclamation have been included in these discussions from the beginning.

CAWCD's restructuring program deals first with the inability of the CAP agricultural irrigation districts to pay the operation, maintenance and replacement ("OM&R") charges due to CAWCD under their existing CAP subcontracts. (As of November 1, 1993, these districts were about \$1.7 million in arrears in the payment of these charges. Only one district had paid the charges due and ordered any CAP water from CAWCD.) CAWCD has offered the defaulting districts the opportunity to avoid these OM&R charges if, but only if, they waive their rights to receive delivery of CAP water under their long-term CAP subcontracts. CAWCD would then agree to sell such districts excess CAP water on a short-term basis at rates to be determined by the Board, subject to the availability

of excess CAP water in each year after first providing for the delivery of CAP water to Indian contractors and municipal and industrial ("M&I") subcontractors of long-term CAP water service and those agricultural subcontractors who retain a right to receive delivery of CAP water under their long-term subcontracts. CAWCD does not view this as an amendment of the CAP subcontracts, but as a mutual waiver of certain rights under those subcontracts by the real parties in interest. The practical effect of this action should be to increase agricultural use of CAP water and thereby reduce costs for all CAP water users while conserving Arizona's groundwater supplies. We have asked the agricultural irrigation districts to state their intentions with respect to their existing subcontracts by January 1, 1994.

As a practical matter, CAWCD was faced with virtually no alternative to the action it chose to take. The Bureau of Reclamation declared the CAP water supply system complete on October 1, 1993. This initiates CAWCD's obligation to repay the construction costs of the system and requires CAWCD to spend current revenues to meet the non-energy OM&R costs of the system (the "fixed OM&R costs"). Non-Indian agricultural subcontractors of CAP water service (and the United States with respect to agricultural water reserved by the Secretary of the Interior for federal purposes) are obligated to pay the fixed OM&R costs associated with approximately 1.125 million acre-feet of CAP water annually. These obligations also began on October 1, 1993, with

issuance by Reclamation of notice of completion of the water supply system. As of November 1, 1993, only one agricultural subcontractor, Hohokam Irrigation District, had scheduled CAP water for delivery and paid CAWCD's OM&R bills. (The United States is over \$1.4 million in arrears in the payment of such bills.)

Testimony before the CAWCD Board and elsewhere indicated that it would be futile for CAWCD to attempt to recover the fixed OM&R charges due from its defaulting agricultural subcontractors by filing lawsuits or other enforcement proceedings. It became clear that the most likely effect of such efforts would be to drive our subcontracting irrigation districts or their constituent farmers into bankruptcy without CAWCD's recovering any significant OM&R revenues.

The Board of Directors of CAWCD was compelled to find a solution to the immediate need to fund CAP OM&R costs, restructure the obligations of its agricultural subcontractors and encourage CAP water use. The Board's action does these things, and it does them in a way which dramatically reduces OM&R costs for the remaining Indian and M&I users of CAP water supplies. CAWCD intends to sell excess CAP water to its agricultural subcontractors on a short-term basis at rates which are competitive with their alternative costs of pumping groundwater. These rates are described in the attached (See Exhibits 1 and 2) and are designed to encourage CAP water use. In 1994, the rates will be \$17 per

acre-foot for the first 200,000 acre-feet of agricultural water sold and \$27 per acre-foot for the next 200,000 acre-feet of water sold. Any water sold in amounts above 400,000 acre-feet will be sold at rates which equal at least the pumping energy costs. The reduced rates for agricultural CAP water service will be made available only to CAP agricultural irrigation districts who made a substantial investment in a CAP distribution system or made an early contractual commitment to CAP.

The difference between the costs of agricultural CAP water service and the rates to be charged by CAWCD for such water service will be funded out of CAWCD's existing reserves. However, this difference will be recovered from the interest savings realized on CAWCD's construction cost repayment obligation. Under long-standing Federal Reclamation law and CAWCD's Repayment Contract with the United States, project capital costs allocated to the delivery of agricultural water supplies are repaid without interest. In contrast, project capital costs associated with the delivery of water for M&I purposes bear interest at the rate of 3.342 percent per annum. The more agricultural water that is delivered, the less interest that is due. If water deliveries to agriculture were to reach the levels originally anticipated (about 650,000 acre-feet per year over the 55-year repayment period for project facilities), CAWCD's annual payment to the United States would have averaged about \$48 million per year on a \$1.84 billion repayment obligation. If no agricultural water were delivered, the

annual payment due from CAWCD would average about \$67 million per year. Under CAWCD's program for marketing agricultural water, deliveries to agriculture are anticipated to average about 240,000 acre-feet annually, and the annual payment due from CAWCD is anticipated to average about \$56 million. If agriculture were to go out of the business of using CAP water altogether, the United States would receive additional revenues from CAWCD in the form of increased interest payments, but if agriculture had used as much CAP water as was originally anticipated, the total revenues to the United States would have been far less than what is anticipated under CAWCD's restructuring program.

In addition, by encouraging agricultural water use, the program should have the effect of conserving Arizona's groundwater supplies. This has been a central goal of the CAWCD Board and the Governor's CAP Advisory Committee. It is also one of the principal purposes of the Central Arizona Project as revealed in the Colorado River Basin Project Act of 1968 and its legislative history. CAWCD's program will also have the effect of reducing OM&R costs to the remaining Indian and M&I users of CAP water supplies. The reason is that, as more water is delivered to more users, the total CAP OM&R costs are spread more broadly and the OM&R charges to individual users are reduced. This is illustrated in the attached example calculation of CAP water costs which uses projections for the year 1995 as an example. See Exhibit 3. The example shows that, without the delivery of agricultural water, the fixed OM&R

costs of delivering CAP water to the remaining Indian and M&I users would be about \$85 per acre-foot of water delivered. If we deliver 400,000 acre-feet of CAP water to agricultural water users, which is the goal of CAWCD's program, the fixed OM&R costs of delivering CAP water to the remaining Indian and M&I users are reduced to about \$40 per acre-foot of water delivered.

At the request of our M&I subcontractors, CAWCD has also chosen to use its existing financial reserves to further reduce the costs of water delivery to its M&I subcontractors by buying those costs down even more for some period of time. The purpose of this was again to encourage CAP water use and also to reduce rate shock to M&I users while providing some degree of rate certainty to both M&I and Indian water users for purposes of future planning. CAWCD did not feel that it was appropriate to devote its existing tax reserves to reducing the costs of water service to Indian communities below what was otherwise achieved as a result of CAWCD's facilitating increased agricultural water use. We believe that, if such reductions are necessary, they are properly the responsibility of the United States.

The above is an effort to summarize some of the elements of CAWCD's program. The program is simple in concept, but somewhat complex in its details. We would be happy to answer questions or to provide additional information.

proposal.pro12/7/93

Exhibit 1



Central Arizona Water Conservation District

MEMO

DATE: October 7, 1993
TO: Board of Directors
FROM: Tom Clark
SUBJECT: Proposed Program for Repayment Adjustment

A month ago staff provided a preliminary proposal regarding initiation of altered arrangements for the repayment of CAWCD's CAP debt and establishment of water rates, to assist in payment of operation and maintenance costs. Ten days ago we offered a revised version of the initial proposal, and with this memorandum offer a third version reflecting further evolution of the original proposal. This version reflects our consideration of the comments offered at the public meetings of the Board and is presented with the recommendation that the Board of Directors adopt this proposal as the foundation of the CAWCD repayment program and the basis for establishing O&M charges.

The program contains two major elements: 1) it protects the interest-free designation of a major portion of the CAP costs allocated to water supply by encouraging agricultural use of CAP water by making such water available to agricultural users at prices which are less than cost, and 2) it minimizes rate shock and uncertainty for M&I users by establishing a forward pricing policy predicated on utilizing interest savings and CAWCD reserves toward these ends.

The above elements are the same as those presented to you in the previous two proposals. As in the last proposal, the plan does not utilize additional taxing authority, it avoids direct assumption of irrigation district debt by CAWCD, and it is consistent with Board indications about the levels of reserves deemed desirable. Implicit in this proposal as with the previous proposals is the necessity to maintain the pricing program as it would initially be structured.

Primary differences are in the forward pricing schedules and in the priorities in the agricultural program. The supported prices in the agricultural water are somewhat higher, and the M&I prices have been altered to provide additional short-term control on rate shock. Additionally, priorities have been rearranged so that within the group of agricultural users who are not taking water under the terms of now existing subcontracts, the lower-priced water will have a second priority rather than a first priority.

RECOMMENDATIONS

Staff recommends that the CAWCD Board of Directors formally adopt the following outline as the conceptual basis for restructuring the CAP repayment process.

1. Each agricultural subcontractor would be given the opportunity to terminate or amend its CAP subcontract to reduce its percentage entitlement to CAP agricultural water. The reduced entitlement would apply to both annual agricultural deliveries and conversions to M&I use. No other variances would be offered. A cutoff date of January 1, 1994, would be established for subcontractors to request a change in their contract provisions or status. -

2. The Arizona Department of Water Resources would be asked to finalize prior to December 1, 1993, recommendations for reallocation or utilization of all CAP water for which no contract or subcontract has been signed.

3. The Secretary of the Interior would be asked to finalize CAP allocations including identification of the amount of CAP water which the United States wishes to reserve. The Secretary will be expected to commit to participating in all costs of using or reserving that amount of CAP water. If the Secretary elects not to expedite final allocation, CAWCD will assume that any water which is not under contract has been reserved by the Secretary in accordance with his previous declarations. CAWCD will expect the CAP cost allocation to reflect capital cost assignments to appropriate non-reimbursable functions associated with the Secretary's declarations and will establish OM&R charges on the basis of the Secretary retaining effective control of the water. CAWCD will, in effect, proceed under the provisions of the master repayment contract.

4. All entitlements to CAP agricultural water supplies retained by CAP subcontractors or the Secretary of the Interior will be subject to a take-or-pay obligation for fixed OM&R costs.

5. CAWCD will create and maintain a new sales process, or market, for CAP agricultural water. Pricing in this market will be controlled in a manner to produce the water use, revenue streams and cost savings required by the plan. A major assumption is that CAWCD currently has the authority and the contractual right to take control of and manage an agricultural pool as suggested. The validity of that assumption will be proved or disproved early in the process should the proposal be adopted.

Designations and Conditions. The overall agricultural pool

will be divided into two major categories:

Category A. This will be agricultural water delivered pursuant to existing contracts or subcontracts which have been modified only in respect to the percentage entitlement of the subcontractor. Subcontractors will be required to pay fixed OM&R charges on all water available for delivery under their subcontracts based on a deliverable water supply of 1,425,000 acre-feet minus, in each year, any shortages declared by the Secretary of the Interior and the amount of M&I and Indian water scheduled for delivery.

Category B. This will be agricultural water sold and delivered without benefit of a long-term agricultural water service subcontract. This category will consist of three pools.

Pool 1. Pool 1 will consist of 200,000 acre-feet with a lesser priority than Category A water. It will be available through calendar year 1999 at established prices reflected in Table I (\$27 to \$32 per acre-foot). The schedule of prices shown in Table I for the years 2000 through 2011 are estimates only. The CAWCD Board of Directors will review forward prices annually and set a firm schedule for the succeeding five years. Scheduled prices will not be guaranteed but will reflect the considered goals and the intent of the Board. The information available about the CAP water supply suggests that Pool 1 water will be available for most of the repayment period in the full amount designated for the pool. Any entity which executed a CAP subcontract and returned that executed contract to the United States prior to October 1, 1993, and which is otherwise eligible to receive agricultural water service will be eligible to purchase Pool 1 water. In case of oversubscription, entities will be prorated a portion of the 200,000 acre-feet based on eligible acres associated with original CAP subcontracts.

Pool 2. Pool 2 will consist of 200,000 acre-feet with a lesser priority than Pool 1. It will be available through year 1999 at established prices reflected in Table 1 (\$17 to \$22 per acre-foot). The CAWCD Board of Directors will review forward pricing annually and set a firm schedule for the succeeding five years. Scheduled prices and water amounts will not be guaranteed but will reflect the considered goals and the intent of the Board. The information available about the CAP water supply suggests that the availability of Pool 2 water will diminish significantly with time. This condition and the intent to curtail the life of this emergency program are reflected in the termination of the pool at the end of

the year 2003. Participation in this pool will be limited to those CAP subcontractors who relinquish all or a part of their validated water service subcontracts between October 7, 1993, and January 1, 1994. In case of oversubscription, entities will be prorated a portion of the 200,000 acre-feet based on eligible acres associated with the original CAP subcontracts. Any portion of the pool which is not sold to those eligible to purchase Pool 2 water in any year shall be made available first to Pool 1 until exhausted and then to Pool 3.

Pool 3. Pool 3 will consist of any agricultural water remaining after sales from Pools 1 and 2. It will be available as the project water supply permits through the year 2010 unless the Board of Directors determines that this agricultural incentive program is no longer beneficial to the District. Pool 3 water will be priced no less than pumping energy costs plus a capital charge to be determined each year. Entities otherwise eligible to receive CAP water service (without reference to a validated CAP water service subcontract) will be eligible to buy pool 3 water.

6. In order to facilitate M&I water supply planning, the combined water rate charged the M&I subcontractors will be established by the CAWCD Board of Directors through the year 1999. The CAWCD Board of Directors will review forward prices annually and set a schedule for the succeeding five years. To the extent that annual charges did not cover annual payments required, the shortfall would be made up from CAWCD reserve funds.
7. All water not covered by contract, subcontract, or reservation by the United States will accrue to CAWCD to sell through a market facilitated by CAWCD, to utilize in meeting its groundwater replenishment district responsibilities, or to otherwise sell or manage in consultation with ADWR.
8. Spot market sales to Arizona users other than non-Indian agricultural users will be on the same cost basis as CAWCD will identify for use in pricing CAP water used for replenishment district purposes. Specific prices for individual users could vary as determined on a case-by-case basis by the Board of Directors.
9. CAWCD will not directly assume or be a principal in the restructuring of the private or public debt of the subcontractors.

BOARD.RPYMTADJ

Alternative 9
CAWCD Repayment Obligation and Savings
With 3-Tier Ag Pricing

Year	CAWCD Repayment Obligation with No Ag (\$1000)	Potential Proposal Results					
		Ag Deliveries (KAF)	CAWCD Repayment Obligation (\$1000)	Repayment Savings Over Zero Ag (\$1000)	Cost to Deliver to Ag at Lower Price (\$1000)	Cost to Meet Contract Obligations to Indians (\$1000)	Remaining Repayment Savings (\$1000)
1994	0	450	900	(900)	5,500	1,725	(8,125)
1995	46,133	400	32,664	13,449	5,488	3,375	4,586
1996	54,288	400	44,279	10,009	5,382	3,300	1,328
1997	63,779	400	52,805	10,974	5,281	3,450	2,243
1998	76,893	400	62,970	13,922	5,187	3,450	5,285
1999	76,291	400	62,395	13,896	5,099	4,200	4,597
2000	75,690	400	61,821	13,069	5,017	4,050	4,802
2001	78,868	400	65,026	13,842	4,941	3,900	5,001
2002	78,266	400	64,451	13,815	4,872	3,675	5,269
2003	77,539	400	63,750	13,789	4,809	3,600	5,379
2004	78,431	200	64,669	13,762	1,377	2,250	10,135
2005	77,703	200	63,968	13,735	1,352	3,797	8,586
2006	76,921	200	63,199	13,722	1,331	3,849	8,542
2007	76,139	200	62,430	13,709	1,314	3,847	8,547
2008	79,137	200	65,442	13,695	1,300	3,973	8,422
2009	78,355	200	64,673	13,682	1,290	4,072	8,319
2010	77,446	200	63,778	13,668	1,284	4,145	8,239
2011	78,158	200	64,503	13,655	1,282	4,411	7,962
2046	15,555	200	14,980	575	575	7,601	(7,601)
NPV - 1994-2011	686,633		560,629	126,004	42,011	36,878	47,115
NPV - 1994-2046	1,023,560		838,476	185,083	49,459	61,132	74,492

Assumptions:

- 200 KAF/yr will be delivered to ag from year 2012 through the end of the repayment period under this alternative.
- Total reimbursable project cost is \$1.8 billion.
- 21 percent of the total reimbursable project cost is allocated to power.
- Net present value calculated with an interest rate of 6.35%.
- CAWCD will complete repayment of the project in 2046.
- Pool 1 water priced at \$27/AF, Pool 2 at \$17/AF, and Pool 3 at \$41/AF in 1994, escalated \$1/year through 2011 and 2%/year after 2011.

Exhibit 2

WORKING PAPER
USE OF AG WATER IN POOLS ESTABLISHED UNDER
CAWCD'S PROGRAM FOR REPAYMENT ADJUSTMENT
(Adopted by the Board of Directors at its
October 7, 1993 meeting)

The percent of participation by each agricultural irrigation district in pools 1 and 2 is arrived at by identifying the original CAP eligible acres for each district as declared by the Bureau of Reclamation, minus the amount that would have been delivered to eligible acres in the district's service area that have been converted to M&I use or have otherwise been removed from irrigation as determined by the Bureau. Each district's eligible acres is then divided by the sum of all districts' acres participating in each pool, and it is that percentage when multiplied by the amount of water in each pool (200,000 acre-feet) that gives the maximum amount of water that is available to each district from each pool (see Table 1).

Each district that relinquishes all or a part of its original entitlement between October 7, 1993 and January 1, 1994, may participate in pool 2, and each district that executed a CAP subcontract prior to October 1, 1993, may participate in pool 1 up to its full percentage per each pool as identified in Table 1.

There are 10 districts that qualify for participation in pool 1 and seven districts that qualify for participation in pool 2. It is expected that those districts which may draw from both pool 1 and pool 2 will draw first from pool 2. If a district in pool 2 does not take its full supply, then any remaining amount will be made available to the remaining districts in pool 2 based on the percentage of their eligible acres to the sum of the remaining districts' acres.

If a district in pool 1 does not take all of its percentage allocated to it, then that amount will be made available to the

remaining districts in pool 1 based on the percentage of their eligible acres to the sum of the remaining districts' acres.

If all water of pool 2 is not allocated to pool 2 participants, it will be made available to pool 1 participants at pool 1 prices.

If, after all requests are met for pool 1 participants, water is still available under pool 1, then that water will be made available to agricultural nonsubcontractors at a price to be set by the Board in that calendar year. If the commitment is to sell 400,000 acre-feet of ag water and if the participants in pools 1 and 2 took only 350,000 acre-feet of water in any year, the Board may want to consider selling the remaining 50,000 acre-feet at pool 1 prices or, if demand would be sufficient, to sell the 50,000 acre-feet at pool 3 prices.

Table 1
CAP Agricultural Water Supply Available
Under Restructured Plan

Entity	Original Subcontract Percentage	CAP Eligible Acreage*	Pool 1 (\$27/AF)		Pool 2 (\$17/AF)		Total Supply From Pool 1 and 2 (AF)	
			Acreage Eligible for This Pool	Percentage of Pool	Acreage Eligible for This Pool	Percentage of Pool		
San Tan	0.77%	2,942	2,942	0.93%	1,869	2,942	2,563	4,432
Queen Creek	4.83%	20,640	20,640	6.56%	13,113	20,640	17,981	31,094
CHCID	0.28%	1,204	1,204	0.38%	765	1,204	1,049	1,814
Tonopah	1.98%	3,490	3,490	1.11%	2,217	3,490	3,040	5,258
CAIDD	18.01%	87,889	87,889	27.92%	55,838	87,889	76,566	132,404
NMIDD	4.34%	27,322	27,322	8.68%	17,358	27,322	23,802	41,160
MSIDD	20.48%	86,089	86,089	27.35%	54,694	86,089	74,998	129,692
RWCD	5.98%	23,933	23,933	7.60%	15,205	0	0	15,205
HVIDD	7.67%	33,102	33,102	10.52%	21,030	0	0	21,030
HoHoKam	6.36%	28,191	28,191	8.96%	17,910	0	0	17,910
Total	70.70%	314,802	314,802	100.00%	200,000	229,576	100.00%	400,000

* Based on records from the U.S. Bureau of Reclamation

Exhibit 3

Example of Calculation of CAP Water Costs
Using 1995 from Alternative 9

Zero Ag Deliveries

Total Fixed OM&R Costs		\$33,696,000	A
Total Available Water Supply (AF)		1,415,000	B
Fixed OM&R Cost per Available AF	[A + B]	\$23.81	C
M&I Deliveries (AF)		289,437	D
Indian Deliveries (AF)		75,000	E
Available Ag Supply (AF)	[B - (D + E)]	1,050,563	F
NIA Allocations on Which Take-or-Pay Charges are Paid (AF)	[11% * F]	115,562	G
Take-or-Pay OM&R Payments on on Undelivered Water	[G * C]	\$2,751,926	H
Remaining Fixed OM&R Costs to be Distributed Among Delivered Water	[A - H]	\$30,944,074	I
Fixed OM&R Charge per Delivered AF	[I + (D + E)]	\$84.91	J
Assumed Energy Charge per Delivered AF		\$36.72	K
Total Cost per Delivered AF*	[J + K]	\$121.63	L

Assumed Proposal Results

Total Fixed OM&R Costs		\$33,696,000	M
Total Available Water Supply (AF)		1,415,000	N
Fixed OM&R Cost per Available AF	[M + N]	\$23.81	O
M&I Deliveries (AF)		289,437	P
Indian Deliveries (AF)		75,000	Q
Available Ag Supply (AF)	[N - (P + Q)]	1,050,563	R
Non-Indian Ag Deliveries (AF)		400,000	S
NIA Allocations on Which Take-or-Pay Charges are Paid (AF)	[11% * R]	115,562	T
Take-or-Pay OM&R Payments on on Undelivered Water	[T * O]	\$2,751,926	U
Remaining Fixed OM&R Costs to be Distributed Among Delivered Water	[M - U]	\$30,944,074	V
Fixed OM&R Charge per Delivered AF	[V + (P + Q + S)]	\$40.48	W
Assumed Energy Charge per Delivered AF		\$36.72	X
Total Cost per Delivered AF*	[W + X]	\$77.20	Y

* M&I delivered price is subsidized with CAWCD reserves.

DRAFT

CAWCD - 10/6/93

Mr. MILLER. You probably recognized how I voted on it. We will give credit to the delegation here who worked very hard on it.

Thank you very much for your testimony, all of you. I will yield to Congressman Pastor.

Mr. PASTOR. Mr. Chairman, I made a commitment long before I knew about the hearing. A number of you talked about legislation to be introduced in the State legislature. Is that legislation going to deal with potential revenue sources for the CAWCD? Is that legislation going to help out with the problem of future revenues?

Mr. DEMICHELE. If I may, Congressman Pastor, there are four components of that legislative package, one of which deals with the extension of an ad valorem tax, which is due to expire in 1995. That current tax is for demonstration projects on the ground, recharge demonstration projects.

The recommendation of our committee is that that tax be extended and be made permanent, number one; second, be extended to Pinal County, and third, go into the general coffers of CAWCD to be used for repayment of this obligation to the Federal Government.

The other three components of that legislative package are the environmental trust fund, which I referred to a moment ago, the Office of Indian Settlements, and also funding for habitat studies. There are other resolutions, but those are the major action items that are a part of that legislative package.

Mr. PASTOR. Thank you.

Thank you, Mr. Chairman, for yielding.

Mr. GODDARD. Mr. Pastor, it is important, my remarks about our financial sufficiency are not affected by our request to extend the tax.

Mr. PASTOR. Okay.

Thank you, Mr. Chairman.

Mr. MILLER. Thank you.

Let me, if I might, Mr. Goddard, in your statement on the first page you say, "The most important message I have to relay to you is this: The Central Arizona Water Conservation District can and will meet its obligations under the Master Repayment Contract with the United States. The first payment, due on January 15, 1994, has already been made through an advance payment credit. We have more than \$160 million in unencumbered reserves. With the expectation of tax payments, power revenues, and water revenues, we believe we can continue to meet our obligations even if we experience more adverse circumstances than one might reasonably expect to occur."

Let me ask you: In anticipation of the Water Conservation District being able to meet its obligations—which, as you point out, is their intent and their ability—what assumptions are made with respect to how these costs that we discussed on the first panel might or might not be shifted to the Federal Government?

Mr. GODDARD. There are some ways that our proposal affects the Federal Government in that interest is not paid on that principal, which is applied to agriculture. That is a substantial amount.

We also feel that the Federal Government will be protected in the development of as much water as we can move through the canal, because as the water goes through in more volume, it affects

all the costs of the canal; and the O&M goes down for the other users.

We feel that if the project cannot be finished—that is, if the terminal storage, which, as the Mayor said, is very final, the scrubbers, the reworking of the siphons, the completion of the dams—if that cannot be accomplished, I think then there must be an application to the Federal Government under the cost ceiling that we have now.

Mr. MILLER. Do that again.

Mr. GODDARD. Not the whole thing.

Mr. MILLER. No. Just the last part. Working backwards from Federal Government.

Mr. GODDARD. All right. The situation is that, as you know—which probably you were witnessing yesterday—there are certain things that are not completed; and under the cost ceilings that we have right now, if they cannot be completed—as you know we have a difference with the Department relative to what is necessary to be repaid. But if those things cannot be completed, obviously we are going to have to apply to the Federal Government if they are to be completed.

And I was quite serious in my testimony that, if they can't be completed, we accept that.

Mr. MILLER. Mr. DeMichele, Ms. Pearson, do you concur with that statement?

Ms. PEARSON. Mr. Chairman, I think I would like to defer and expand upon that at a later date. That sounds like a very complex question and one that would probably include a lot of detail with respect to our financial obligation on the project.

[The information follows:]

Upon review of the question it appears that the matter was covered in Mr. Goddard's written testimony. Specifically on page 4 where Mr. Goddard states "If significant activities remain uncompleted, then new arrangements mutually agreeable to all parties, can be made to complete any necessary activities."

Mr. DEMICHELE. You are right, assumptions are an important part of any conclusion, and you have to weigh the assumptions to come up with an answer to that. I would like to take a look at it further, as Rita has said.

Mayor MILLER. We have heard a lot of figures from the panel before us. And I think a lot of those figures are in dispute or certainly are being questioned. So I don't know how else to answer the question of yours other than we are going to have to look at all this some more and put it all together, because there is a basic difference in some of these areas.

Mr. MILLER. But if, in fact, the premise is that if you are against a cost ceiling or a contract ceiling, that the Federal Government ought to forego those facilities—yours is aptly named "the terminal"—do you still believe that is a Federal obligation, as part of this project?

Mayor MILLER. For instance, our understanding of the statute is that the terminal storage was to be paid for by the Federal Government above and beyond the cost of the CAP aqueduct so that is not a part of the ceiling.

So whatever the figure is, what it comes down to, about \$3.8 billion at this point, whatever that figure is, and this terminal storage figure is not a part—

Mr. MILLER. I understand that. But my point being, I assume should we be up against the authorized ceiling, is the city of Tucson willing to go on its own to build the facility?

Mayor MILLER. At this point, I don't see how I could answer the question in the affirmative.

Mr. MILLER. I understand.

Mayor MILLER. As far as CAP is concerned, from the very beginning, the city of Tucson there, the whole area there, was promised as much security of water as there is in Maricopa County. That has been a given from the beginning. To my knowledge that has never changed.

As I mentioned in the statement—and I am sure you knew this before—we are the only city with only groundwater. We don't have any surface water; and if we are cut off because of whatever conditions occurred during a year, the time of presenting CAP water to the Tucson area, we know there is going to be times of not getting that water, whatever the reason. We need to have the terminal storage. There is no other way we can operate.

We have taken very seriously the whole question of safe yield in our community and are aware how much we are depleting the aquifer and want to stop it. If conditions had been different in terms of our delivering the CAP water, we would have been more than 5 percent off groundwater by 1995.

So, I mean, our approach is one that is very strong in this area and to get away from the groundwater and get into the CAP water. And the terminal storage is an integral part of our ability to do that. It is an integral part of it.

Mr. MILLER. Mr. Goddard, the underlying suggestion that I see—I don't want to mischaracterize the statement—but the underlying suggestion in your statement is that you have got a plan to sort this out; you have got a proposal that you want to take to the legislature. In the event that you are up against the constraints of Federal law, either with respect to contracting authority and/or authorized project ceilings, then the CAWCD is prepared to finish out the project and go on about its merry way.

Mayor MILLER. Mr. Chairman, I believe that we are content that we can operate the project as we have described in my statement, as we speak now. That is not to undervalue or underestimate terminal storage in Tucson. The actual siphons, these huge things that are even now sitting out there on the edges of our various rivers, are going to have to be put in the ground. That has got to be done because the existing siphons are inadequate. They are going to break down. That has to be done.

The various other things that I referred to, there are some matters in contention with reference to the Federal Government's responsibility relative to the Indians in that their trust obligation is quite clear. The Indians will benefit by additional water moved into the non-Indian agricultural segment. But it strikes me that the Federal Government is responsible for moving the Indian water through the canal and paying the costs of moving.

We also have had mentioned today another obligation, and that is of the various districts who have caused to be made various distribution facilities; and their obligation, it has been suggested, should be the CAWCD obligation. But we do not believe that to be the case.

In other words, they cause the various distribution systems to be built and their bonds and their requirements; and as has been so wisely said before today, with the advent of the problems in agriculture, bankruptcy is very, very close and a pertinent possibility.

I believe that CAWCD is now operating and will continue to operate in a fashion that will keep us fiscally sound.

Can you elaborate a little more as to what you wanted me to talk about?

Mr. MILLER. Let me yield to my colleagues first, because I want to make sure they have an opportunity in this round. I will come back.

Ms. English.

Ms. ENGLISH. Thank you, Mr. Chairman.

Also I would like to thank Mr. DeMichele for an outstanding job. When we first started discussing how this would work this year and how it would be accomplished, I didn't think we would get this far along. I appreciate your efforts, what we have both gone through to get to this point. I believe it shows not only a tremendous good-faith effort on behalf of Arizona but the cooperation of a variety of people and interests that really understand how serious this is to Arizona. And I thank you for spearheading it and putting all your time into it. I think you have done a fine job for the State.

I am also quite pleased about a number of the projects that have been discussed by the panel, and I would like a little more detail, if possible.

First of all, I know I won't be able to get detailed information right now because I know you have just heard the reports from the preceding panel, and I would be very interested in your response or CAWCD's response to some of the revenue figures that they talked about and even some dispute among themselves about those figures and some of the disputed areas on project negotiations that are taking place.

There was some reference to a variety of issues. And I would like to ask if I might get a report or a statement back in response to the first panel's comments, if I could get that from CAWCD at some point. It will prompt further questions on our behalf.

Mr. GODDARD. To take your questions first, about revenue—

Ms. ENGLISH. About revenue and then about some of the projects. You mentioned siphons. I think that is a concern, when I was in the nature that I was dealing with, and I am not sure it has gone the direction that everybody thought it would. So I would like some written, tangible material that I can further question both GAO and Mr. Johnson with.

Mr. GODDARD. We would be delighted to furnish it.

Would you like some answer now? Or would you like to have it submitted in writing?

Ms. ENGLISH. If you have an answer now, very briefly, that is great; but I would really like some written submittal so that I have reference, so I can sit down with those folks.

Mr. GODDARD. We will certainly give it to you.

[EDITOR'S NOTE.—The information maybe found in the appendix.]

Mr. GODDARD. Since you mentioned the siphons, I would just like to say a very brief word about the siphons. These were, of course, part of the project. The contracts were let, the specs were drawn, the siphons were brought out and put in. Many technical problems, of course. But the brute fact is that they failed. CAWCD had nothing to do with any of that process whatever. Now we are saddled with the requirement of paying for at least half of it. I can't, for the life of me, understand exactly why.

They are being replaced at the present time. It is a huge project. And as Mayor Miller knows, we are going to have to stop the water when they are being put in. So Tucson is either going to have to go back on its pumps, and if they possibly can, put the egg back into the shell, do something about providing Tucson with water for a considerable piece of time. This is a big problem.

Our revenues are, as we speak, very complicated. It would be difficult to give you right off the bat—

Ms. ENGLISH. I understand that.

Mr. GODDARD [continuing]. A very detailed idea of how they are. But they are changing. And do not be misled by the fact that we are offering agriculture prices that they can pay. They are giving us in exchange their entitlements. We have four contracts that are already finished, signed and in hand, with four of the big districts. It is important for them, important for us, because the more water we can move, the lower the O&M costs to the Indians and to the cities.

This is a fact that is difficult to understand, but it is true. Our revenues with respect to power have been brought into question. What happens after 2011 is something that I doubt if anybody around can tell at the moment. But there is a prospect in the immediate future of developing stronger power revenues. And we are setting about to do it.

Ms. ENGLISH. Thank you, Sam. I look forward to the response—

Mr. GODDARD. I am sorry to elaborate even that much. But we will respond to you in writing.

Ms. ENGLISH. I appreciate that a lot.

Rita, I have a question about the Recharge Demonstration Projects and the extension and making permanent the ad valorem tax.

Do you have a sense of the amount of revenue that will be generated by that extension? And do you know whether those figures were reflected in the GAO report?

Ms. PEARSON. Representative English, I do not know. In fact, I would guess it was not reflected in the GAO report simply because the Governor's Advisory Committee made its recommendations at the close of September to extend it; and it was a recommendation that, of course, needed more with respect to dealing with CAWCD's board and the general public.

So we are in the process of developing a legislative package that would, as Mr. DeMichele indicated, extend the tax to 1995, and ex-

tend it to Pinal County and give the CAWCD the ability to apply it to not only the demonstration tax but to repay obligations on the CAP.

As to the tax, I could not tell you what the calculation is for the three counties yet.

Ms. ENGLISH. Perhaps if I could get that in a written report, that would be great. I would appreciate that.

[The information follows:]

The taxes collected by CAWCD for the three counties in 1993 and what could have been collected in Pinal County if the 4 cent tax was collected in that county are as follows:

Ten cent ad valorem tax:	
Maricopa County	\$14,488,999
Pima County	3,032,374
Pinal County	613,312
Total	18,134,685
Four cent demonstration recharge tax:	
Maricopa County	5,795,600
Pima County	1,212,950
Four cent tax if collected in Pinal County:	
Pinal County	245,325

These amounts are based on 1993 property values and would be expected to increase over time due to increased development and inflation.

Ms. PEARSON. With respect to the recharge legislation, the recommendation was to do an expanded recharge program, keeping in mind that California and Nevada were very actively interested in doing some sort of recharge of CAP water in Arizona. We are continuing discussions with the State of Arizona with representatives of Nevada and California to determine the hydrological feasibility of conducting expanded recharge programs, what the costs may be, and what the ramifications may be. As far as legislation goes what we are doing this session is introducing a streamlined package for recharge programs in Arizona.

Right now it is a somewhat convoluted process. There are eight different statutory programs. So the Department is attempting to simplify it to encourage use by out-of-state users if they are so inclined.

Ms. ENGLISH. Thank you.

One other area. And, Mark, you might be able to answer this the best right now. And it has to do with the Office of Indian Settlements. One of the things I have run into, the first year in Congress, is how many incomplete Indian settlements are just hanging out there. And as we have gone through this process, it really is a big unknown with CAP. I am pleased that this is a recommendation that will be part of that legislative package.

Can you elaborate a little on that?

Mr. DEMICHELE. I would be happy to Congresswoman.

The idea is to establish an office that will serve as a facilitator to do whatever we can in the State of Arizona to push these Indian settlements forward.

I want to underscore what I said in my testimony, which is that we can't do it alone. We need whatever pressure can be brought to bear by your committee at the Federal level to get on with this and get those settlements made. We are willing to go more than our halfway, if you will to do what is necessary to get those settle-

ments. But that office will be charged with facilitating those settlements as best we can.

Ms. ENGLISH. Rita, did you want to respond to that too?

Ms. PEARSON. If I might, the Department, on behalf of the Advisory Committee, met with a number of representatives of the tribes just a couple of days ago. The message we conveyed to them was that our intention was to hopefully acquire an appropriation from the State legislature to set up a neutral office that would be one that would be housed at a place acceptable to the tribes whose function would be to coordinate meeting dates, information, help emphasize key points to get the deliberations off the dime, if you will.

Ms. ENGLISH. I guess my final question probably can be answered by you, Rita; and that is: Having been in the legislature—and a couple of us up here have been—what do you think the possibility of success will be? And will it happen this next legislative session?

Ms. PEARSON. Representative English, my initial response is, if I could tell you that, I would be in Las Vegas right now. But I do think we have a good chance. We have very sound support from the business community. We have had a very public process. The water user community is very supportive of the recommendations.

And we have been briefing key legislators throughout the process. Mr. DeMichele and I have done briefings of the leadership in both the House and Senate, and they have been very appreciate of the efforts and we think very supportive.

Ms. ENGLISH. I believe this will go a long way in bringing such diverse interests together in Arizona and will be a great step in the right direction from Congress' perspective. So anything I can do to facilitate that in the legislature or anything I can do to help, please let me know.

Ms. PEARSON. I appreciate that.

Ms. ENGLISH. Thank you.

Mr. MILLER. Mr. Kyl.

Mr. KYL. Thank you, Mr. Chairman. In the interest of time, I am simply going to thank all the members of this panel, each in their own way has contributed significantly to this effort.

I want to add one other thing, Chairman Goddard indicated his pride in having all of the members of his board here. There are a couple of people here who have a very long and active association with the Central Arizona Project who are here; and I think we might do well to acknowledge their presence.

Jay Rhodes, our former colleague who has worked on the CAP not only as a Member of Congress but in other capacities, Webb Todd, chairman of the Central Arizona Project Association, and Jack Williams, former Governor. He has probably done as much as anybody in this room. I think they all deserve to be mentioned for their long and active support of the CAP.

Mr. MILLER. Mr. Stump.

Mr. STUMP. Thank you, Mr. Chairman.

Let me thank all of you for your testimony.

Rita, you stated in your testimony, and quite correctly, we will go through our full use in Indian water settlements and increased industrial use.

You also said, at the same time, we are going to be willing to work with our sister States to solve their problems.

Let me ask you whether that commitment would ever involve the Governor's office in agreeing to any change in Arizona's CAP allocation?

Ms. PEARSON. No, Mr. Stump. I thank you for the opportunity to respond. We would absolutely not consider any change in our entitlement to Colorado River supplies.

Mr. STUMP. Thank you.

Thank you, Mr. Chairman.

Mr. MILLER. Let me, if I might, just make a couple of other points and perhaps get you to respond to them.

Mr. DeMichele, I notice in your testimony that you recall the admonishments, I guess suggestions, of Congresswoman English and myself about, in order to produce a credible report, that the entire Arizona community had to be involved in your operations; and you did that. And I think the results speak for themselves in terms of that effort. And I think most people are pleased with that.

I get a sense that there are sort of two channels running here. One is a suggestion that perhaps was made forcefully by Governor Goddard's statement that this can really be basically resolved in-house. If necessary, the State could conceivably go it alone to a number of other arrangements to deal with the fact that there could quite possibly be legal restraints on additional participation by the Federal Government without authorization or without a renegotiation of the contract or, in fact, maybe both.

But as I look at the two recommendations from your commission and from CAWCD, there are some assumptions about an increased Federal role here. That is what I think the GAO alerted us to. And those may go to \$1 billion. There are some decisions that CAWCD might want to make or not make that could shift additional burdens to the Federal Government relying on precedent or relying on obligations, what have you, with respect to Indian water settlements.

And while that is one thing here, it also seems apparent there is some suggestion that somehow this can be done without the direct involvement of the Federal Government. And I just don't see how those two things are consistent. My experience in the water community of the West is that controversy and delay sometimes are very good for various parties. And we can continue to challenge whether it is \$1.8 billion or \$2.0 billion, whether we are over or under, but that can all be resolved rather quickly from the legislative side of this, and that is that.

Mr. Duffus and GAO and others will quickly tell us—or we can ask OMB—whether they are or they aren't. They may be reluctant to tell us; but at some point, they will have to tell us before the next appropriations round. It seems to me at that point the music sort of stops.

I go back to your statement and the suggestions of Congresswoman English and myself earlier on. It seems to me, given the host of representations you have put on the table—and some of them seem very workable and others seem to me subject to further polishing and negotiations—that there is this tendency to try and avoid the Bureau and/or even our committee. First and foremost

let's leave our committee out of this, but the Bureau is going to be terribly time-consuming of resources, and you are not going to get to the point you want to go.

Most of the suggestions have impact on the Federal taxpayer one way or another. It seems to me that, given Arizona's unified delegation in the Congress, between the House and the Senate, on a bipartisan basis, and the commitment you have in the State—as diverse as the interests are—everybody agrees there is an interest in seeing this project brought to completion. They agree these issues are best resolved in direct negotiations, and not by continuing to skirt around the edges.

If that includes bad news that the cost ceiling is there, this committee has historically dealt with cost ceilings. We have dealt with them in a way that, as I say again, I think certainly—I have to speak for my State—all but a tiny minority were happy with the way that was resolved, including a complete cross section of the business community in that State.

And that was true in these other projects. But the suggestion that we are at the point where we can patch and re-work it on the cheap or indirectly, I don't think is going to work here. This is a big project. This is a big chunk of dough. If everything goes right, there is a considerable Federal interest in this.

Governor Goddard noted that he testified in, what was it, 1968. I figured the next hearing would probably be 2011, and we would be right on schedule because of the historic skill of this delegation. So 1968 may have been the last hearing, not only the last one he did, but the last hearing on this subject. But I think, given the changes in the Congress and the rules and the attitude, the deficit, and all the things that we confront, that we should have looked at this as a joint venture when we started out—when Chairman Udall and others in this community presented this to the Congress and the Congress agreed to it. Now that we have hit some bumps in the road, I think we need to decide whether this is a joint venture.

Most of the contracts are third-party contracts. I don't think any of us sitting in the Federal legislature can suggest we are not going to be a party to the renegotiations or to the changes and modifications of those contracts.

No business entity would do that to one of your clients. None of you would do it in your private practices. We cannot expect that the taxpayer simply wanders off into the horizon while these are renegotiated. That requires a very candid approach to laying this out. And I think you have done that for starters, along with the Bureau of Reclamation and whatever Federal entities, BIA, others that may be involved in these negotiations.

But I am really worried, the more conversations that I pick up, that there is a suggestion that somehow we don't have to go in and admit that we are up against the ceiling. I don't think that that is the catastrophe that some people suggest it is. And, as I said, the energy to avoid that is not terribly productive.

So I would just hope that, given, I think, a rather remarkable start that this combined panel represents, that that would not now be lost in the sort of diversionary efforts to seek an indirect way for me to be—I don't know if you want to respond or what have you.

Mr. DEMICHELE. I would defer to the Governor.

Mr. GODDARD. Somehow everybody wants to at this stage of the game.

Mr. MILLER. It is a tribute to your very forthright statement.

The question is: How does that play itself out?

Mr. GODDARD. Naturally, we are concerned about the terminal storage in Tucson. We are concerned about the siphons. We are concerned about the various elements of the dams. We are responsible for the Roosevelt Dam, although it is not part of our project. It is part of Plan 6. We are very concerned that these things be finished. But we are also very positive in that our current financing is able to let us function as we should function.

In working with the agriculture sector, we have simply been giving up some of our rights in the contract, and they have been giving up some of their rights, without even approaching the principal contracts. In other words, we are simply willing to allow agriculture to survive with as much help as we can make, and try to benefit the other users. And, of course, we consider ourselves partners, and we have to be.

After all, the Federal Government has produced us a life raft for the State. And how could we provide for those wonderful Californians that are coming over here now and living in various parts of the State? We are going to have to—

Mr. MILLER. We have an alternative which would include their staying there.

Mr. GODDARD. It is fascinating. Most of our older people are moving to California. Now, the situation is this. Our input into the State is a push from other places. And there is very little that we can do to control it. And the projections that we have now would indicate that the water, although we have a surplus at the moment, that it will fast disappear.

And a very important assumption is that the role of agriculture is diminishing and will continue to diminish, and we are planning on that.

However, as you say, the bumps we can handle right now. And we certainly intend to handle them in concert with our big brother of the Federal Government and with all of the entities in the State who, at the current time, are as one. I mean, we can fight among ourselves privately, but we are as one at the moment in the fact that we would like to make this thing viable.

Mr. MILLER. I hope I have spoken clearly. And I want to again thank you, because you have all individually and on behalf of your organizations invested a very, very substantial amount of time and effort on behalf of the State and of the project. And I look forward to our continued involvement with you and hope, as I say, that we can address these in the most direct manner possible so that we can just get on with it and get it resolved to the best interests of this State and everyone else. Thank you very much for your time and your testimony.

It is the intent of the committee that we will go straight through to the end of this hearing without a break. I know that my colleagues who are not on the committee have joined us, and they also have other commitments. And so I just wanted to tell them about that so they can make whatever adjustments they need to do so.

And we appreciate their interest and their involvement with this issue.

Mr. MILLER. The next panel will be made up of Mr. Rob Smith, the Southwest Representative, the Sierra Club, Phoenix, Arizona; Mr. Bill Scott, President, Board of Directors, Maricopa-Stanfield Irrigation and Drainage District; and Mr. Robert O'Leary, Executive Director, Water Utilities Association of Arizona.

Gentlemen, if you would please come forward. We have a little over two hours, and we have three panels. So I would really hope you could summarize so we can allow time for questions, but also make sure the other panels are not shortchanged in this discussion.

Rob, we will begin with you.

PANEL CONSISTING OF ROB SMITH, SOUTHWEST REPRESENTATIVE, SIERRA CLUB, PHOENIX, AZ; C.L. "BILL" SCOTT, PRESIDENT, BOARD OF DIRECTORS, MARICOPA-STANFIELD IRRIGATION AND DRAINAGE DISTRICT, STANFIELD, AZ; AND ROBERT A. O'LEARY, EXECUTIVE DIRECTOR, WATER UTILITIES ASSOCIATION OF ARIZONA, PHOENIX, AZ

STATEMENT OF ROB SMITH

Mr. SMITH. Mr. Chairman, members of the committee, my name is Rob Smith. I represent the Sierra Club. I am their Southwest Representative based here in Phoenix. We are a national environmental organization with 9,000 members in this State.

Thanks for bringing the committee here today, providing us the opportunity to talk about the Central Arizona Project and the environmental issues associated with it.

One of the CAP project purposes is the enhancement of fish and wildlife resources. And with the committee's permission, I will summarize my written statement in the interests of time.

The CAP was—and still is—being promoted using the rhetoric of scarcity. Images are conjured up of stark deserts baking in the sun and of an economy and way of life standing at the brink of disaster save for that thin blue line which winds its way through the parched desert, getting its life's flow from the Colorado River.

It has been deeply ironic for some of us to hear many of them characterizing the current problem of the CAP as one of underutilization. It is as if they are both saying "we need more water but we aren't using enough."

We think the real issue is not how much or how little we are using of the CAP but rather how good a steward is Arizona being of the water available to it.

To us the wise stewardship means two things. It means protecting and restoring important stream habitats, especially along the Colorado River. It also means encourage conservation through phasing out water use subsidies in favor of market pricing for scarce water resources.

We aren't using water as wisely as we should in Arizona. Nearly 80 percent of Arizona's total water supply goes to agriculture; yet that sector provides less than 3 percent to the State's economic base. Cotton and alfalfa are the largest single agricultural water users, and both are the most water-intensive crops we grow. Furthermore, cotton is in surplus. In 1991, for instance, the Federal

Government paid Arizona cotton farmers more than \$26 million in price supports.

Probably the greatest environmental impact of the CAP is the potential to remove 1.5 million acre-feet of stream flow every year from the Colorado River. On the Lower Colorado, along the border with California and also in New Mexico, the river already fluctuates, salinates, and eventually dissipates to the detriment of recreation and endangered native birds and fish.

These and other issues are ones that we and other environmental groups have brought to the Governor's CAP Advisory Committee, of which several of us were members. As part of that body, we proposed a solution which we felt helped the environment, promoted water conservation, and addressed the CAP repayment obligation.

Key elements of our proposal were allocating up to 175,000 acre-feet from the CAP's yearly 1.5 million acre-feet for fish and wildlife purposes, mostly to remain in the Colorado River. We expect that this would become a non-reimbursable use and thus could lower the overall CAP repayment amount.

We also proposed establishing an environmental trust fund for establishing protection and restoration and to support water conservation projects. We suggested a \$15 million yearly fund level to be raised from a wide variety of potential sources, including from revenues generated through marketing CAP water to Nevada and California users.

We also represented promoting water conservation and water marketing and phasing out subsidies and below market pricing for water and the power to pump it.

Thanks to the leadership of Governor Symington and Mr. DeMichele, the Governor's committee ultimately developed a set of recommendations which included endorsements of the concepts of an environmental trust fund up to \$8 million yearly and for up to 150,000 acre-feet to be set aside for environmental purposes.

We are now engaged with the Department of Water Resources and others working on the details of that which have not been finalized and, therefore, have not been ultimately approved by the State or the CAWCD.

The Governor's committee largely rejected water marketing and did not urge significant new water conservation measures. In contrast, they developed a target pricing plan which lowered agricultural water rates for CAP to \$17 per acre-foot while phasing in rate increases to urban dwellers to charge them more than \$100 per acre-foot.

The Sierra Club and six other environmental groups opposed this plan because it encouraged greater water use and taxpayer subsidy, this at a time when Congress and the Administration have been emphasizing resource conservation and greater cost recovery.

Proponents of the target pricing plan the committee recommended say it reduces reliance on groundwater. We would rather do that through conversion to lower-water-use crops, raising the groundwater pump tax to a point where the CAP water is more economically attractive, or simply decreasing agricultural use.

Proponents of the committee plan fear loss of Arizona's Colorado River entitlement unless Arizona starts diverting more of its water. Some also fear that marketing CAP water to other States will

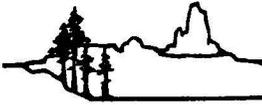
weaken our State's claim to water in the future. We don't see the risks that way. We recognize that Arizona's entitlement is a product of a Supreme Court decision, an interstate compact with several States, and a congressional law; therefore, not easily undone. We view water marketing as a means to solidify Arizona's claim to its water by putting its resources to use in that manner and also to raise revenue for repayment obligations and to fund environmental enhancements.

In closing, we welcome the subcommittee's review of the CAP. We hope you will take a close look at how we could work together to make this a more environmentally and taxpayer friendly project to meet both Federal and Arizona needs.

Thank you.

Mr. MILLER. Thank you.

[Prepared statement of Mr. Smith follows:]



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SIERRA CLUB SOUTHWEST OFFICE

**TESTIMONY OF ROB SMITH
 SIERRA CLUB SOUTHWEST REPRESENTATIVE
 BEFORE THE HOUSE NATURAL RESOURCE COMMITTEE
 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
 REGARDING THE CENTRAL ARIZONA PROJECT
 ON DECEMBER 10, 1993
 IN PHOENIX, ARIZONA**

Mr. Chairman, Members of the Committee and Members of the Arizona Congressional Delegation, my name is Rob Smith, and I am the Southwest Representative of the Sierra Club, a national environmental organization with 9000 members in Arizona.

Thank you for this opportunity to speak today concerning the Central Arizona Project and environmental issues associated with it.

The CAP was -- and still is -- being promoted using the rhetoric of scarcity. Images are conjured up of stark deserts baking in the sun, and of an economy and way of life standing at the brink of disaster save for that thin blue line winding through the parched landscape bringing us a life giving flow from the Colorado River.

It's then deeply ironic that many who come before you now have characterized the current problem with the CAP as being one of "underutilization". It's as if they're saying both "we need more water, but we aren't using enough."

We think the real issue is not how much or little we are using the CAP, but rather how good a steward is Arizona of the water available to it.

Wise stewardship means two things to us:

- 1) Encouraging conservation through phasing out water use subsidies in favor of market pricing for scarce water resources, and
- 2) Protecting and restoring important stream habitats, especially along the Colorado River.

We aren't using water the way we should in central Arizona. Nearly 80% of our state's water supply goes to agriculture, yet

that sector provides less than 3% to the state's economic base. Cotton and alfalfa are the largest single agricultural water users, and both are the most water intensive crops we grow. Furthermore, cotton is in surplus; in 1991 the federal government paid Arizona cotton farmers more than \$26 million in price supports.

It's estimated that up to 90% of our desert stream habitats have been lost or seriously degraded due to depleted groundwater tables, diversions and channelizations. In many places, the groundwater supplies have been so severely drawn down that the land surface is literally cracked and collapsing. Despite the much-touted Groundwater Management Act, the Pinal County area, a potential big agricultural customer for CAP, is an area designated for "planned depletion" of groundwater -- that is, they are exempt from the requirement other areas face for bringing groundwater use into balance with natural recharge rates by the year 2025.

The greatest environmental impact of the CAP is the potential to remove 1.5 million acre feet of stream flow every year from the river course. On the Lower Colorado River, the river already fluctuates, salinates and eventually dissipates to the detriment of recreation and endangered native wildlife. Most of the time, the Colorado is so heavily used that its flow never reaches its historic delta on the Sea of Cortez in Mexico. The last remnant of that once vast and biologically rich area is the Cienega de Santa Clara, kept alive temporarily by the outflow from the Wellton-Mohawk Irrigation District.

There are demands elsewhere in the Lower Colorado Basin for water to serve the thirst of southern California and the Las Vegas area, which have eyed San Francisco Bay and the Virgin River respectively for new supplies if the Colorado River is not available.

All of these issues are ones we and other environmental groups raised as members of the Governor's CAP Advisory Committee, which completed its work this past September. As part of that body, we proposed solutions which we felt helped the environment, promoted water conservation and addressed the CAP repayment obligation.

We proposed:

- 1) allocating up to 175,000 acre feet from the CAP's yearly 1.5 million acre feet for fish and wildlife purposes, mostly to remain in the Colorado River. We expected that this would become a non-reimbursable use, and thus could lower the overall CAP repayment amount.
- 2) establishing an environmental trust fund for stream protection and restoration, and to support water conservation projects. We suggested a \$15 million yearly funding level, to be raised from a wide variety of potential sources, including from revenues generated through marketing CAP water to Nevada and California users.

3) promoting water conservation and water marketing, and phasing out subsidies and below-market pricing for water and the power to pump it.

The Governor's Committee ultimately developed a set of recommendations which included endorsements of the concepts of an environmental trust fund up to \$8 million yearly, and for up to 150,000 acre feet to be set aside for environmental purposes. However, the details have yet to be finalized and approved by the State or the Central Arizona Water Conservation District.

The Governor's Committee largely rejected water marketing and did not urge significant new water conservation measures. In contrast, they developed a "target pricing" plan which lowered agricultural water rates for CAP to \$17 per acre foot while phasing in rate increases to urban dwellers to charge them more than \$100 per acre foot. Assuming these low ag rates entice more farm customers, then the total yearly repayment obligation to the federal government could be lowered by up to \$12 million dollars due to excused interest payments for agriculture.

The Sierra Club and six other environmental groups opposed this plan because it encouraged greater water use and taxpayer subsidy. Congress and the Administration, too, have been emphasizing resource conservation and greater cost recovery.

Proponents of the Committee plan say it decreases reliance on groundwater. We would rather do that through conversion to lower water use crops, raising the groundwater pump tax to a point where CAP water is more economically attractive or simply decreasing agricultural use.

Proponents of the Committee plan fear loss of Arizona's Colorado River entitlement unless Arizona starts diverting its water. Some also fear that marketing CAP water to other states will weaken our state's claim to the water in the future. We don't see the risks that way. We recognize that Arizona's entitlement is a product of a Supreme Court decision, a Congressional law and an interstate compact, and therefore not easily undone. We view water marketing as a means to solidify Arizona's claim to its water by putting its resource to use in that manner.

Proponents of the Committee plan see increasing use within Arizona as firming up our state's control of the water; we think it's placing our future in greater jeopardy by hastening the day when these new supplies reach their limit, and by increasing the pressure on the already overallocated Colorado River.

Proponents of the Committee plan claim that it solves the financial concerns regarding repayment, but we think that assertion bears a closer look. The calculations could be significantly off if the federal government prevails in establishing the repayment amount as \$2.1 billion rather than the \$1.8 billion claimed by the CAWCD. Also, it is hardly a certainty that agricultural use of

200,000 acre feet of CAP water will be sustained for 50 years given the recent history of over-optimistic projections of project use.

- In closing, we welcome this Subcommittee's review of the CAP, and we hope you will take a close look at how we can work together to make this a more environmentally and taxpayer friendly project. Thank you.

Mr. MILLER. Mr. Scott.

STATEMENT OF C.L. "BILL" SCOTT

Mr. SCOTT. Thank you, Mr. Chairman.

I am Bill Scott, a long-time farmer in Arizona. I appreciate the opportunity to appear before this committee to make this statement.

I have been farming in the Maricopa-Stanfield Irrigation & Drainage District area, where I am currently serving as president of the board of directors. I farm with my two adult sons. Our three families are totally dependent on agriculture and the availability of CAP water. My district to date has been one of the largest users of Central Arizona Project water.

I would also like to express appreciation to you for holding this hearing in Arizona to hear these firsthand reports of the importance of the Central Arizona Project system to our State. Your committee has been essential to our progress.

Mr. Chairman, I would like to acknowledge members of the delegation present, especially Representative English, who not only represents my district but also serves on this committee and has been a very important representative to us, to our progress to this point. Her interest and enthusiastic support is very gratifying. We enjoy it very much, and we certainly appreciate it. I had the pleasure of having her tour my farm to ensure some of the conservation measures we instituted down there to utilize water in the most efficient manner possible.

I am disappointed we didn't get to follow up and have our second meeting this fall to see the harvest. I also appreciate the representatives from our rural communities here today, also from Congressman English's district. These folks joined in a united front to develop a State solution to under-utilization in cooperation with the Governor's Advisory Committee. It was a gratifying experience to see the rural communities speaking with one voice in support of the CAP system's project usage.

My statement will be brief. I want to cover four points. I have submitted a written statement, and I will try to summarize this way.

I want first of all to convey a strong sense of commitment to the use of CAP water for agriculture. I want to also impress upon you the importance of the intended use of CAP water in the most efficient manner we know of, conservation practices. I want to show you the strong support we have in agriculture for CAWCD's water pricing policy. I want to give assurance that the pricing policy provides us with a better opportunity to make payments on the Federal and private bond debts.

Our commitment to the use of Central Arizona Project, I have lived 20 years in anticipation of using that water and never having to pump another drop. Water is like gold; it is where you find it. We have a diminishing supply. It was never intended that we revert back to pumps at this stage in our life. It is an unfortunate situation, one we have very little control over.

The State adopted a groundwater code which mandated reduced groundwater withdrawal. You have already heard the comment made it is a substitute supply, it is not a supplemental. There is

no new expansion. We leave in the ground one acre-foot of water for one acre-foot of CAP water.

Landowners have contributed significant financial obligation to the usage of CAP water. We have state-of-the art concrete system that loses little over 4 percent. This was very expensive. In addition, the Federal Government has loaned us the balance of the 80 percent. This amounts to the irrigation district having a \$1,100 per acre debt on this land.

The first project, to my knowledge, was financed in this way for a self-help project. Our district operates all the pumps. We do this for two reasons. One is efficiency, where we can serve about 25 percent of the energy that is normally used throughout the district. The second reason is that we only operate if the water is unaffordable or unavailable.

Mr. Chairman, from the beginning, not only agriculture but many segments of our economy and our districts were totally committed to using CAP water. The commitment to water conservation, in addition to the \$1,100 an acre we spent in bond obligations, we have redesigned our irrigation systems to a certain extent by spending about \$300 an acre in my own case to put in new ditches, larger ditches. We have leveled and redesigned hills at a cost of \$600 an acre. We have got \$1,100 plus \$300 plus \$600 which is about a \$2,000 debt against the land which is now currently valued at \$1,000 an acre, some of it less than that.

This demonstrates our commitment to use and the dedication to conservation. The resulting water usage consciousness is that we measure now in acre-inches rather than acre-feet.

CAWCD's water pricing policies have our support. The negotiation has been in effect for about two years, and we are very happy to see these negotiations concluded. It does improve our survival possibilities. It lowers the cost equally, and it assures usage of CAP water. It puts new life back into the rural policies. Without the policy, farmers would return to pumps and would not repay debts; it would probably defeat the goals of the Groundwater Management Act—not probably, but very definitely would.

It is a very positive first step toward achieving the goals of the CAP. It puts the district in the position of now negotiating debt repayment, which we didn't have any chance of doing before. My district happens to be one of the first to sign the agreement with CAWCD.

Mr. Chairman, your committee is to be complimented for the strong support they have shown for this project over many years. It has been a cooperative effort and shall continue to be. There are still some outstanding issues that need to be resolved. You have our pledge to work cooperatively with CAWCD and the Bureau of Reclamation toward that end. We want to be a part of the solution. We hope your committee will see the wisdom of this plan and not oppose its successful implementation.

Thank you for hearing my statements.

Mr. MILLER. Thank you very much.

[Prepared statement of Mr. Scott follows:]

STATEMENT OF
C.L. "BILL" SCOTT
PRESIDENT OF THE MARICOPA-STANFIELD
IRRIGATION & DRAINAGE DISTRICT
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON NATURAL RESOURCES
DECEMBER 10, 1993

PART ONE -- INTRODUCTION

Mr. Chairman, Congresswoman English, other members of the Committee and distinguished guests, my name is Bill Scott and I am happy to appear before you today as a long-time Central Arizona farmer. I have been farming in the Maricopa-Stanfield Irrigation & Drainage District area for 36 years and my current farming operation consists of myself and my two adult sons. Our three families are entirely dependent upon our family farming operation and the availability of CAP agricultural water. I also am privileged to serve as the President of the Board of Directors of the Maricopa-Stanfield Irrigation District which to date has been the largest user of Central Arizona Project water. In 1990 Governor Symington appointed me as the first chairman of the Advisory Council to the newly formed Arizona Department of Agriculture.

**PART TWO -- COMMITMENT TO THE CENTRAL ARIZONA PROJECT AND
WATER CONSERVATION**

The State of Arizona and its citizens are committed to utilizing CAP water in lieu of high levels of groundwater. This commitment has been made on many levels in the State of Arizona beginning with the State's adoption of the 1980 Groundwater Management Act and the understanding that CAP water will be a substitute supply of irrigation water and not a supplemental or new

supply which would encourage expansion of irrigation. This commitment is evidenced on the district level by the assumption of significant financial obligations for the construction of our CAP distribution facilities as well as our commitment to providing the irrigation district with the total operational control of our irrigation district wells so that such wells are only utilized when CAP water is unavailable or unaffordable. This district-wide commitment to reduced groundwater pumping goes far beyond the mandates of Arizona's Groundwater Management Act although it is certainly consistent with both the State and Federal policy which resulted in the passage of that Act as well as the passage of the Central Arizona Project enabling legislation.

Like most farmers in my irrigation district and many farmers throughout the Central Arizona Project service area, my family has made substantial financial commitments to the efficient use of CAP water. This commitment not only requires us to share in the financial obligation of the irrigation district for repaying the cost of the construction of the CAP distribution system, an effective investment of \$1,100 per acre, but it was also necessary to make substantial on-farm improvements and modifications to our internal water distribution system. These costs include:

1. Reconstruction of the larger concrete-lined canals at a cost of \$300 per acre.
2. Redesign of farm field layout and land leveling to maximize the efficient delivery of water, at \$600 per acre.

Altogether it could be said that we have invested a total of \$2,000 per acre for the efficient utilization of CAP water and reduced the overdrafting of groundwater, all on land that has been reduced in value to approximately \$1,000 per acre.

Obviously, if Central Arizona Project agricultural water were so expensive as to make its use impossible, not only would these substantial on-farm investments be largely wasted, but the purposes for our irrigation district's construction of a \$100 million dollar CAP water distribution system would also go largely unrealized. We would have no choice but to return to substantial groundwater pumping despite negative environmental and social consequences as well as the lost opportunity to utilize our individual, district-wide and state-wide economic investments in the Central Arizona Project.

The Maricopa-Stanfield Irrigation & Drainage District has invested substantial time, effort and funds in the promotion of water conservation goals as part of its CAP participation. The District's CAP water distribution system represents the state-of-the-art with respect to avoidance of seepage loss. Recent studies have shown that through seepage and evaporation loss our district canal system loses less than 5% of the water it transports. As part of its repayment contract with the United States, the District has had to comply with a stringent water conservation plan. Also the requirements of the National Environmental Policy Act were met with the construction of these water distribution systems.

It should also be noted that, unlike many other irrigation projects west-wide, the United States did not put up all the money for constructing these water distribution systems. My District, like the other Central Arizona Project districts, was required to put up 20% of the cost of the construction of its system and did so mostly through the issuance of private general obligation bonds. The debt service on these bonds constitute a substantial financial obligation on the part of the landowners in the District and once again reflect our considerable commitment to

the success and the long-term availability of Central Arizona Project water.

**PART THREE - WATER PRICING POLICY OF THE CENTRAL ARIZONA
WATER CONSERVATION DISTRICT**

The recent water pricing policy established by the Central Arizona Water Conservation District appears to be the best opportunity for continued survivability of my family farm, my irrigation district and even the rural community in which my farm and irrigation district exists. This policy recognizes the substantial economic commitments made by farmers in my irrigation district and in the other CAP irrigation districts to the Central Arizona Project and seeks to ensure that the purposes of these financial commitments are achieved. By pricing the water at levels which make it competitive with groundwater pumping, our preference for utilizing CAP water over groundwater will be assured and the groundwater conservation goals of the State of Arizona will be furthered.

The continued viability of farms within the Central Arizona Project play an important role in rural economic development. In Pinal County this fact was recognized by an extensive group of municipal, business, and political leaders who worked closely with the Governor's Advisory Committee to develop a plan and recommendation which would allow for continued use of CAP agricultural water by Pinal County farmers, both Indian and non-Indian. The proposal also encouraged use of CAP municipal and industrial water by Pinal County municipalities and water companies. The CAWCD CAP water pricing plan certainly is a positive step towards achieving these objectives.

With the announcement of CAWCD's pricing plan the long-term viability of all farmers in the Maricopa-Stanfield Irrigation & Drainage District has been improved and the prospect for repayment of our Federal obligation has been enhanced significantly. Nevertheless, it is certain that without the CAWCD pricing plan, Central Arizona farmers could not utilize CAP water and clearly would be in a much more difficult position for repaying the United States and bondholders for the cost of constructing CAP distribution systems which would largely go unused. Additionally, without this policy, farmers throughout the Central Arizona Project would have to return to high utilization of groundwater pumping which is directly contradictory to the groundwater management goals of the State of Arizona and presumably the United States as well.

PART FOUR -- CONCLUSION

The State of Arizona in general, and the Central Arizona Water Conservation District in particular, are dealing with the problem of under-utilization of Arizona's Central Arizona Project entitlement. The State's repayment capability to the United States is secure as evidenced by testimony provided by the Central Arizona Water Conservation District and the Arizona Department of Water Resources. The environmental benefits of encouraging uses of Central Arizona Project water in lieu of groundwater are obvious and should need no further emphasis. The CAWCD proposal provides the best opportunity for achieving these goals and for this reason Maricopa-Stanfield Irrigation & Drainage District was the first district to sign the agreements with CAWCD to implement the proposed plan.

Mr. Chairman, we hope that your Committee in particular, and the United States in general, will see the wisdom of this plan and not oppose its successful implementation within the State of Arizona.

Thank you for the opportunity to present this testimony.

Mr. MILLER. Mr. O'Leary.

STATEMENT OF ROBERT A. O'LEARY

Mr. O'LEARY. Mr. Chairman, I am the executive director of the Water Utilities Association of Arizona, which is a nonprofit corporation supported by approximately 150 water companies. Member companies operate systems ranging in size from 1 to 48,000 customers, serving a total of approximately 800,000 Arizonans. Our primary purpose is to protect the interests of member companies by assisting and/or representing them before a multitude of forums, including appearances before committees such as this one, so that their views may be heard.

I want to thank you for giving us this opportunity to express our views relative, first, to the Central Arizona Project in general; and, second, to the restructuring of the CAP repayment plan which was currently adopted by the Central Arizona Water Conservation District through a very brief statement as follows.

One, the investor-owned segment of the water industry in the State strongly supports the Central Arizona Project. Of the 66 subcontracts signed by non-Indian CAP subcontractors for municipal and industrial water as reported in the CAWCD CAP Subcontracting Status Report this past September, 31, or 47 percent, were with investor-owned water companies, representing an allocation of 73,000 acre-feet, or 13 percent, of the 560,000 acre-feet currently under subcontract.

We are not only involved in the utilization of the municipal and industrial water currently under contract, but we will be in the future. By their nature, municipalities cannot leapfrog out into the rural areas where development takes place. It will be the investor-owned water companies which have helped develop Arizona's rural element in the past. They are doing it now, and they will do it in the future; and they will do it by either using converted CAP agricultural water rights or groundwater which will still be available if we allow agriculture to continue using CAP water.

Two, the investor-owned segment also strongly supports the restructuring of the CAP repayment plan which was recently adopted by the CAWCD. This plan was not some willy-nilly effort which was pushed through without thorough consideration by all parties involved. As a matter of fact, this plan is the result of long months of extremely hard, difficult negotiations between all parties who were so far apart at times that we felt like we might never reach some sort of a consensus.

But reach a consensus we did, and what a rare consensus it is. That consensus resulted in the final report and recommendation of the Governor's Central Arizona Project Advisory Committee. Rare, because the agricultural and the municipal and the investor-owned interests are truly best served by this report, which resulted in the CAWCD's target pricing program. Our interests are served for a number of reasons.

Unlike municipalities, investor-owned water companies cannot unilaterally increase their water rates without the approval of the Arizona Corporation Commission, our equivalent of a public service commission. Therefore, water pricing is extremely important.

This plan provides for a more affordable price than would be the case otherwise. Agricultural usage must be kept in the plan to stabilize the price of water through the interest credits received.

However, these interest credits are not the most important reason for supporting agricultural usage under this plan. The most important reason, from our view, is the reduction of groundwater pumping.

Let me say that once again: The most important reason for allowing agricultural usage of CAP water is the reduction of groundwater usage. No additional new demands are being created by such usage.

In addition to price, availability of water is extremely important. With agriculture having to give up its long-term water rights in order to receive this lower priced water, the plan will have the effect of assuring the availability of water for our customers in the future.

The plan also provides for another goal which the State of Arizona has and which should be a U.S. policy goal, that being an orderly transition from the use of water for agricultural uses to municipal and industrial uses.

Three, the investor-owned segment recognizes that, to the extent the plan may have to be modified in the future, a strong base of cooperation has definitely been established to accomplish this process.

Four, we also strongly believe that the CAWCD will pay its obligations; and until it does not, we can see no real reason for Federal intervention in the internal State process which has adopted a plan to make sure that the financial obligations will be met.

Five, we also strongly believe that the State of Arizona needs every drop of water for its future development. We find it very difficult to believe that any water which finds its way out of the State will ever become the "prodigal son" and return home.

That concludes my statement. And I want to thank you once again for this opportunity to allow us to express investor-owned water views.

Thank you, Mr. Chairman.

[Prepared statement of Mr. O'Leary follows:]

STATEMENT

BY

ROBERT A. O'LEARY, EXECUTIVE DIRECTOR
WATER UTILITIES ASSOCIATION OF ARIZONA

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
CENTRAL ARIZONA PROJECT

GIVEN AT

PHOENIX, ARIZONA
DECEMBER 10, 1993

December 10, 1993

Chairman Miller, members of this subcommittee, my name is Robert A. O'Leary. I am the Executive Director of the Water Utilities Association of Arizona (WUAA), which is a non-profit corporation supported by approximately 150 investor-owned water companies in the State. Member companies operate systems ranging in size from 1 to 48,000 customers, serving a total of approximately 800,000 individuals. Our primary purpose is to protect the interests of member companies by assisting and/or representing them before a multitude of forums, including appearances before subcommittees, such as this one, so that their views may be heard.

Thank you for giving us this opportunity to express our views relative, first, to the Central Arizona Project (CAP) in general, and second, to the restructuring of the CAP repayment plan recently adopted by the Central Arizona Water Conservation District (CAWCD) thru the following brief statement:

1. The investor-owned segment of the water industry in the State strongly supports the Central Arizona Project. Of the 66 subcontracts signed by non-Indian CAP subcontractors for municipal and industrial water as reported in the CAWCD CAP Subcontracting Status Report this past September, 31 (47%) were with investor-owned companies, representing an allocation of 73,000 acre-feet (13%) of the 560,000 acre-feet currently under subcontract. We are not only involved in the utilization of the municipal and industrial water currently under contract, but we will be involved when agricultural water is converted for M&I uses in the future. By their nature, municipalities cannot leap frog out to where rural development takes place. Investor-owned water companies have helped develop rural Arizona in the past, they are doing it now, and they will do it in the future! And they will do it by using either converted CAP agricultural water rights, or groundwater, which will still be available if we allow agriculture the continued use of CAP waters.

2. The investor-owned segment also strongly supports the restructuring of the CAP repayment plan which was recently adopted by the CAWCD. This plan was not some "willy-nilly" effort, which was pushed through without thorough consideration by all parties involved. As a matter of fact, this plan is the result of long months of extremely hard, difficult negotiations between parties who were so far apart, that at times, we all felt as if we would never, in three life times, reach a consensus. But reach a consensus we did, and what a rare consensus it is. That consensus resulted in the final report and recommendations of the Governor's Central Arizona Project Advisory Committee. Rare, because the agricultural and the municipal and the investor-owned interests are truly best served by this report which resulted in the CAWCD target pricing plan. Our interests are served for a number of reasons:

A. Unlike municipalities, investor-owned water companies cannot unilaterally increase their water rates without the approval of the Arizona Corporation Com-

Page 2

mission, (our equivalent of a public service commission). Therefore, water pricing is extremely important. This plan provides for a more affordable price than would not be the case otherwise. Agricultural usage must be kept in the plan to stabilize the price of water thru the interest credits derived. However, these interest credits are not the most important reason for supporting agricultural usage under the plan. The most important reason, from our view, is the reduction of groundwater pumping. Let me say it again, the most important reason for allowing agricultural usage of CAP water, is the reduction of groundwater pumping! NO ADDITIONAL NEW DEMANDS ARE BEING CREATED BY SUCH USAGE!

B. In addition to price, availability of water is extremely important. With agriculture having to give up their long-term water rights in order to receive the lower priced water, the plan will have the effect of assuring the availability of water for our customers.

C. The plan also provides for another goal which the State of Arizona has and which should be a U.S. policy goal, that being an orderly transition from the use of water for agricultural to municipal and industrial uses.

3. The investor-owned segment recognizes, that, to the extent the plan may have to be modified in the future, a strong base of cooperation has been established to accomplish this process.

4. We also strongly believe that the CAWCD will pay its obligations, and until it does not, we can see no real reason for federal intervention in the internal State process which has adopted a plan to make sure that the financial obligations will be met.

5. We also strongly believe that the State of Arizona needs every drop of water it has for future development. We find it very difficult to believe that any water which finds it's way out of the State will ever become the "prodigal son", and return home.

That concludes my statement, and I want to once again thank you for this opportunity to present the investor-owned water companies views.

Mr. MILLER. Thank you for your testimony.

Mr. Scott, thank you for your testimony, and thank you for your remarks about Congresswoman English.

I have, since I have become the chairman of this committee recognized the emotions with which the committee deals. We deal with assets. We diminish or increase those assets, or we move the boundary north, south, east or west in one fashion or another. And recognizing that role, I have tried as chairperson to use the members of my committee as guides through that thicket in the States in which they represent.

And I don't know that she especially asked for this, but we arrived very early on, about the second day she was in Congress, that that was going to be her role on our committee, because this is, as we have already heard this morning, a monumental undertaking; and I appreciate you helping us in that process by bringing her to the irrigation district.

Let me, if I might, ask you: Mention was made this morning about the concerns that the Federal Government, the Bureau of Reclamation, would have with the restructuring of the distribution debt given their concerns about the private debt of the districts. Can you address that? Should they be concerned? Or is that an ongoing problem?

Mr. SCOTT. Mr. Chairman, I am sure they should be concerned. We have three phases we have to go through to make ourselves totally viable again. The first thing is the cost of water, which the CAWCD pricing policy has taken care of now. The Bureau has the discretion to restructure loans or not. We have had meetings with them as to whether or not we should restructure that loan.

At the same time we have discussions with the bondholders, for the same purpose, to restructure those bonds. We fully intend to pay our total debts off. We don't have any intention of doing anything otherwise. But the first important step has been made with the CAWCD pricing policy. And I think that sets the stage now for the follow-up discussions that we need to have, starting with the other groups.

Mr. MILLER. When you refer to the pricing policy, you are referring to the desire to have a target price?

Mr. SCOTT. Water cost that they just established. We have signed the agreement with the CAWCD. That is the cost of water for the districts.

Mr. MILLER. That target pricing obviously raises some issues down the road, if not immediately, about the assumptions of some of those costs. Especially with respect to Indian irrigation water in the future.

Can you comment on that?

Mr. SCOTT. The target pricing has steps built into it for the increase over time. I really can't expand on it much more than that. I am not really familiar enough with the objectives on the Indian water pricing policies. I haven't been in all the discussions in that area, so I don't know what the—

Mr. MILLER. Mr. O'Leary, do you have any comment on what implications the pricing policy, which you have endorsed in your statement, might have?

Mr. O'LEARY. It goes back to my initial comment relative to our being unable, unilaterally, to increase our rates as our costs increase by the virtue of water pricing.

There is a term just now finding its way into use in this area, price shock, or rate shock. We in the water industry in Arizona have had to live with that for some time. The bottom line, without going into a great deal of detail, is that in the event that there was not an orderly escalation of those costs, we conceivably could be unable to recover a significant cost increase by going through our public utility commission for additional rate relief.

Therefore, the stability I think that I mentioned is one of the areas we are extremely interested in.

Should agriculture be excluded from the formula? We not only see that as a basic problem in the increase of the water pricing but we see a potential mechanism as we ratchet up for other elements, including some of our own investor water companies, A, having to reconsider whether that water price now is at such a level, and B, their inability to recover those costs to the Arizona Corporation Commission that, C, might lead to having to bring their contract back to CAWCD.

Mr. MILLER. If that pricing policy had the potential to load significant additional costs on the part of the investor-owned community down the road, would you be endorsing it?

Mr. O'LEARY. Let me say this: For a long while I followed Metropolitan Water District in Southern California, and I am aware of the water pricing mechanisms in Southern California and the levels that they have reached, which are astronomical when we compare them to the water pricing that we are looking at in the State of Arizona.

But those pricing mechanisms didn't establish themselves overnight. They were a long process since the late 1930s in raising those water prices to where they are now.

Arizona is in a relative position that California districts and metropolitan areas were 50-55 years ago in that we have a base of our water pricing that we are accustomed or used to. Any substantial increases that might come, and to get to your status quo, over a long period of time, where substantial annual increases were not involved, I would feel freer to say, yes, we could accept that, because we would more than likely be able to pass those costs through to our ratepayers.

Mr. MILLER. In the case of this policy, if I properly understand it, it obviously sets in motion here a political dynamic among an important political constituency within the State—and that is the Indian irrigators—as to whether or not they are going to have or not have a target price for them.

That obviously raises the issue of how deep are Uncle Sam's pockets, because that is the only way you could arrive at that situation.

And if they don't have that, they are confronted with the notion that they cannot sustain their investment in the lands that they have made or they have expected to make or they relied upon making in the face of those settlements.

And so I appreciate target pricing appears to provide a bridge for a period of time, but nobody has decided who is going to pay for

the bridge yet. We have the potential to inherit—not a long way down the road, because there seems to be a universal demand in this room, certainly among my colleagues, that we get on with these Indian settlements as soon as we possibly can. And in some cases that means water could flow, based upon what happens in nature, almost immediately.

Mr. O'LEARY. I think we are predicating some of our conclusions on the fact that all of these monies must be raised through the water pricing mechanism. And speaking not just personally, I think there are other avenues available. While the political climate is not such today for tax increases, we in the State of Arizona have available to us ad valorem taxes through the Central Arizona Water Conservation District that could help offset those price increases in the future when the political climate does change relative to tax increases.

Mr. MILLER. I am encouraged by that statement. But I think it makes my case that we have got to make sure we are including all of the parties to these negotiations. I think we should not just decide not to attend to the subject matter at hand here—how does this rebound into the Indian water settlements and the Federal Treasury—that it will take care of itself, if in fact there are other mechanisms that go to the question of how the debt will be apportioned out in an orderly fashion over the coming years should the State decide it wants to embrace target pricing.

Mr. O'LEARY. I think the recommendation by the Governor's Advisory Committee to continue the ad valorem tax that is currently being collected but should stop in 1995, that that be collected into the future, indicates a desire on the part of the State to utilize that vehicle. It is no surprise, nor is it unknown, that the CAWCD has the ability to tax and that, in fact, the tax rate currently being leveled is not the maximum that State statute currently allowed for.

So it is a definite vehicle, and it would keep the pricing away from the water element. When ad valorem taxes are utilized within the three counties as a minimum, or we could say the entire State, based on some weighted measure, the individuals involved with the use of that water, particularly in the three-county area, have a part of the price collected through ad valorem taxes. Municipalities would be relieved of eternally having to go to their councils to say, "we need to increase our rates."

Water companies, in like kind, would be relieved of the obligation of attempting—and I have to use the word "attempting," for full recovery of their costs.

Furthermore, the full cost would not be borne by those water companies when it relates to the specific charges for their particular areas of service. Their consumers would be paying through ad valorem taxes but never have to contend with the pricing mechanism as a part of their monthly water bill.

Mr. MILLER. That is a great scenario. Just include the Federal Government in the deliberations. So far I haven't heard them mentioned in how we benefit.

Mr. Smith, maybe the CAP came at a different time, but in the Central Valley Project, one of our major debates was over whether or not we could get, as a project purpose, fish and wildlife and environmental concerns. And that is in the CAP legislation in the au-

thorized features, the conservation and development of fish and wildlife resources.

What has been the history of that with respect to this project?

Mr. SMITH. This project has spent a great deal of money on mitigation; that is, making up for damage done in the process of constructing the project. But it is generally agreed it has spent nothing in terms of enhancements, that is, to actually create something beneficial beyond making up for something that was negatively impacted.

So in our view that is part of the agenda that is unfulfilled. I think it justifies looking, certainly at this point, as we look at the whole project, additional investment or at least set-asides for water for environmental purposes.

In our view, there are some opportunities in the interior of Arizona, and there are certainly large opportunities in terms of the amount of water along the main stem of the Colorado, including all the way down into Mexico. If you look at the remnant of the Colorado River Delta, the Seneca to Santa Clara, which lives off of a temporary activity, as there are increasing pressures on the river from urban use or agricultural use, or as the CAP comes on line more fully, there will be times of drought. Even if everyone was taking only what they were due, the river has been more obligated than there is water to meet those obligations in many years.

So we see this as an opportunity not to place perhaps the entire burden on Arizona certainly for restoration where we can in the Colorado River ecosystem, but there is an opportunity to take a significant step. And we think that is something the Federal Government ought to take a close look at. There is extra water to take a look at that, and that would be consistent with project purposes.

Mr. MILLER. Not to make you say it again, but having been through this debate once, you view the obligation in that case to be both money and water?

Mr. SMITH. Money can be raised with various mechanisms, especially one we have advocated. You're looking for new money from places it doesn't come from now, in marketing water temporarily at least to places that demand it right away such as Southern Nevada and Southern California; and there are those opportunities that go well into the future, the next century, at the very least. The Federal Government can allocate some water certainly to remain in the Colorado River. You don't pay the pumping costs at that point, the cheapest way to achieve some real environmental benefit.

In our view, it would be consistent with how it has been handled in other projects for that to be seen as a Federal purpose, non-reimbursable; and, therefore, I think attractive certainly to the Governor's committee when it was discussed as one way of lowering the overall repayment obligation.

Mr. MILLER. Thank you.

Karan.

Ms. ENGLISH. I don't have any specific questions. I did want to thank Mr. Scott for his comments.

And I also, Mr. Chairman, would ask unanimous consent to submit comments of Cyprus Miami Mining Corporation for the record.

[EDITOR'S NOTE.—See appendix.]

Mr. MILLER. Without objection.

Mr. Stump.

Mr. STUMP. Mr. Chairman, I would just like to thank the members. With your permission, I would like to submit a couple of questions later on for the record to Mr. Smith.

[EDITOR'S NOTE.—See appendix.]

Mr. MILLER. That would be fine.

Thank you very much for your testimony and for your help with this hearing.

The next panel will be made up of the Honorable Thomas R. White, Governor of the Gila River Indian Community and Ms. Mary Ann Antone, the Representative of the Water Resources Committee, the Tohono O'odham Nation, Sells, Arizona; Daniel Preston, who is the Vice Chairman of the San Xavier District of the Tohono O'odham Nation.

Welcome to the committee. As with the previous panels, your entire statement and documents in support of those statements will be made a part of the formal record. To the extent to which you can summarize, we would appreciate it so we can have time for questions.

Governor White, we will begin with you.

PANEL CONSISTING OF HON. THOMAS R. WHITE, GOVERNOR, GILA RIVER INDIAN COMMUNITY, SACATON; MARY ANN ANTONE, REPRESENTATIVE, WATER RESOURCES COMMITTEE, TOHONO O'ODHAM LEGISLATIVE COUNCIL, SELLS, AZ, ACCOMPANIED BY DAVID FRANK, ESQ.; AND DANIEL PRESTON, VICE CHAIRMAN, SAN XAVIER DISTRICT COUNCIL, TOHONO O'ODHAM NATION, TUCSON, AZ, ACCOMPANIED BY THOMAS LUEBBEN, ESQ.

STATEMENT OF HON. THOMAS R. WHITE

Mr. WHITE. Thank you, Mr. Chairman. I appreciate the opportunity to testify before the Committee on Natural Resources.

As you can see from yesterday's visit to the Gila River Indian Community, we presented to you at that time a composite of a conceptual plan that diverted our water from our needs from time immemorial. Our land, we have about 100,000 acres there into the allotted lands and about 275,000 that are tribal lands.

Out of that we have been given the fact by a Federal case that we were entitled to 1.5 million acre-feet of water at one time. We went through a series of land meetings throughout our community and came up with a rationale of justified use for water. And in 1979 we came out with an acre-feet amount of 791,000 acre-feet that were going to be suggested to use for the Gila River Indian Community.

Under those terms and agreements we looked at it, and we went into the area with Jack Feester, who was the executive manager at the Salt River Project, to come together the components of water district cities and towns and begin the negotiations for water settlement, which CAP is a part of.

In 1924, I think, Congress authorized construction for irrigation projects. Under those terms in those years, these same constructions are deplorable and are dilapidated at this time. We just seem

to have a lot of bottlenecks; we can't get the water into the area so far where we need it most.

We are continuing to pursue the litigation of the 1.5 million acre-feet, and we are also looking at additional CAP water as a means of water right settlements, and also to be provided on what is an available and affordable cost.

In October 22 of 1992, we signed our CAP agreement for 173,000 acre-feet. And it was directly with the Secretary of Interior and no contractual relationship with CAWCD.

We feel that Reclamation does not protect the interests of the community or other Indians. We have provided Congress a "Comprehensive Funding Proposal and Appropriation Request, November 1993," which demonstrates the need for affordable CAP water through the numerous planning processes of those supporting documents.

I would like to get into the area of the positions of the community which are listed in my testimony.

One: Secretary should exercise his trust responsibility and allocate to the community and other Indian tribes affordable CAP waters in his control to satisfy the Indian water budgets. CAP water is needed by the community and is an accepted component in our agreed-upon water budget with the negotiating parties. The Arizona Department of Water Resources, ADWR, and CAWCD reallocation plans must be junior to those of the Secretary to satisfy Indian needs.

Two: The misconception of local entities in Arizona that the United States will pay for or provide a means for Indians to pay for CAP water must be discarded. The community has witnessed 60 years of the United States Congress and the Administration's failure to adequately fund the San Carlos Indian Irrigation Project.

Mr. Miller, we know that your committee would not like to prolong this chronic lack of funding of water supplies intended for the Community's use. A positive, up-front funding mechanism should be provided. Indian agriculture water prices must be no greater than and competitive with non-Indian agricultural, NIA, water prices.

Three: CAWCD has determined the affordable price of CAP water for Arizona non-Indian agricultural use at a maximum of \$17 per acre-foot. The remaining issue is how the State of Arizona and the United States will pay for CAP OM&R while delivering Indians \$17 per-acre-foot agricultural water. A "postage stamp" rate for CAP municipal and industrial, M&I, and agricultural water use will not work.

Four: The key to the success of CAP is to get water delivered. For agriculture to use water, it must be priced at \$17 per acre-foot. The community needs the CAP water to satisfy the agreed-upon water budget. The United States and Arizona need CAP water delivered to the Community at affordable prices and quantity to achieve a water settlement. Full use of Indian CAP water reduces the per-acre-foot cost of fixed OM&R.

Five: CAP was intended to provide an alternative water supply so that the State of Arizona would reduce its groundwater pumping. The major solution to the Community's water settlement is to ensure that the off-reservation mining of groundwater from under-

neath the reservation is reduced and mitigated. CAP must be kept alive to provide an alternative water source. Pinal Active Management Area, Pinal AMA, has a planned depletion, not safe yield, groundwater use goal. Any concession to groundwater pumpers in the Pinal AMA must be tied to the adoption of a safe yield goal. The planned depletion of groundwater for Pinal AMA will allow continued mining of water from underneath the Reservation, will not provide a long-term solution to the conservation of the State's groundwater resource and will continue to place the United States at risk due to the mining of the Community's and allottees' groundwater.

Six: Arizona must provide appropriate local contribution to Indian water settlements that provides for affordable water supplies.

Seven: A take-or-pay provision that would require the community to pay for water allocated but not ordered or used would be intolerable. CAP restructuring must be based on the payment for water ordered and delivered. Take-or-pay does not work for NIA, so why is CAWCD proposing to saddle Indians and United States with the same take-or-pay provision? The effect of a take-or-pay provision for Indians is to price water to Indians at a rate that Indians will not be able to use the water and be forced to sell it to non-Indians and M&I.

Eight: Indian contractors for CAP water must have equal access to water markets controlled by CAWCD and ADWR.

Nine: An Indian Water Users Board is being established to represent the common interests of the tribal participants' in decisions concerning CAP OM&R. The goal of the board is to assure that CAP water will be available to each tribal participant at an affordable price. We request congressional and administrative support of our board. We appreciate your concern for Indian representation.

Ten: Until 1868, our ancestors maintained a balanced, riparian Gila River ecosystem, even when they diverted the entire river flow into the "Little Gila." We want to restore some of the riparian areas. Current actions of the United States Fish and Wildlife Service, under the Endangered Species Act, threaten to limit the ability of our Community to utilize existing Gila River water supplies and have impacted our use of CAP. Our use of Community resources, including agriculture, municipal, and industrial use of water as well as riparian reforestation and habitat uses, must be adequately protected. Deliberations on the impact of CAP water deliveries to our Community are being carried out without our knowledge or representation. Any use by the Secretary of CAP water for environmental purposes must be considered only after satisfaction of the water budgets for Indian water use.

Eleven: Starting in 1991, the Community requested that Reclamation contract with the Community for all of the work to be done on and off the reservation in connection with CAP Indian Distribution Division facilities for the reservation.

The Community members are mature, capable, adult human beings and are the only ones that can decide what they want. The Community is the common link for the reservation's multiple sources of water and funding from two Federal projects. The Community must be given control of the projects. Reclamation has not yet agreed or proposed a contract with the Community in two

years. The Community has hired engineering consultants who should be paid with CAPIDD funds.

The Community requests a full accounting and justification from Reclamation for the work completed and planned for the reservation by Reclamation. Reclamation has not provided to the Community such a justification.

That concludes my testimony.

Mr. MILLER. Thank you.

[Prepared statement of Mr. White follows:]

**TESTIMONY OF
THOMAS R. WHITE
GOVERNOR
GILA RIVER INDIAN COMMUNITY**

TO

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES**



December 1993

Mr. Chairman and members of the Committee, I thank you for the opportunity to testify before you. I am Thomas R. White, Governor of the Gila River Indian Community.

The Gila River Indian Community ("Community") is composed of Pima and Maricopa Indians whose ancestors prospered from irrigated farming in the Salt and middle Gila River valleys. After the Civil War, upstream non-Indian settlers diverted Pima-Maricopa water, reducing the Pimas and Maricopas to poverty.

The Community is the governing authority for the Gila River Indian Reservation ("Reservation"), originally authorized by Act of 1859. The Reservation contains approximately 100,000 acres of allotted and 274,000 acres of Tribal land on the southern borders of Phoenix and Chandler, Arizona.

The United States has not followed through with its promises to provide adequate water for the Reservation. In 1879, the President, at the urging of General McDowell, extended the Reservation to the Salt River to assure the Reservation's right to Salt River water. In 1897, Congress authorized a right-of-way for a canal from the Salt River through the Reservation on the condition that the Reservation be served with Salt River water. In 1907, Congress authorized the expenditure of \$300,000 to pay for the Reservation's proportionate part of the Salt River Project. Except for minor drain water and water from a salty well, the Reservation does not receive water from the Salt River Project.

In 1924, Congress authorized construction of an irrigation project for the Reservation. That irrigation project has not yet been completed and provides less than 100,000 acre-feet average annual surface water supply to the Reservation. The 100,000 acre-feet is insufficient for allotted, let alone allotted plus Tribal, acres. The irrigation works that were constructed have never adequately served the Reservation land in the project and have not been properly maintained. Although it was judicially determined that the Community cannot be charged with the operation and maintenance of the project works, the Community borrowed money for the rehabilitation of the project's Southside Canal on the Reservation.

In 1964, the Community provided evidence that the Central Arizona Project ("CAP") water was needed to serve Reservation lands. The Community has a CAP water delivery contract for 173,100 acre-feet annually.

In 1985, the Community conducted more than 53 local consensus planning meetings to determine Reservation land and water use goals. As a result, the Community adopted 791,100 acre-feet as a Reservation water budget to achieve land use goals. The Reservation water budget includes water for each of the approximately 100,000 acres of individual allotments and a reasonable amount for Tribal land.

With a proper delivery system, CAP can serve any part of the Reservation planned land uses.

The Community is continuing to pursue litigation of its water rights claims which total over 1.5 million acre-feet annually. The Community would prefer to settle, and has been willing to

accept, additional CAP water for the Reservation water rights settlement, provided the supply is reasonably available at an affordable cost.

The Community has the largest single CAP water allocation and water delivery contract. However, the Community has been excluded from meaningful input into the decisions regarding CAP. The Community's contract is directly with the Secretary of Interior (Secretary). The Community has no contractual relationship with CAWCD. CAWCD ignores or vigorously opposes positions helpful to Indians. The CAWCD position proposes that Indians pay almost four times the non-Indian agricultural, operation, maintenance and replacement (OM&R) water prices. Reclamation has transferred CAP to CAWCD without addressing the Secretary's relationship to Indians. Reclamation often does not protect the interests of the Community or other Indians.

Our Community has demonstrated a need for affordable CAP water in numerous planning processes and supporting documents. If we achieve a water settlement, CAP could be a source of affordable water. If we are unable to achieve a water settlement, our CAP allocation and CAP water reserved by the Secretary for our use will be a vital supplemental water supply to augment our existing available Gila River water, groundwater and Salt River water sources. The Community is submitting to Congress a "Comprehensive Funding Proposal and Appropriation Request, November 1993" requesting that programmatic funding be appropriated to construct irrigation delivery, distribution and on-farm facilities to utilize our existing available water resources. We need CAP water today even without a water settlement. Our Community is committed to pursue all avenues to develop the existing and potential water sources for our

agricultural, municipal, industrial and recreational development and environmental preservation. Our comments concerning a comprehensive water settlement also apply to our existing available supplies.

The Community urges the following CAP positions be adopted.

1. Secretary should exercise his trust responsibility and allocate to the Community and other Indian tribes affordable CAP waters in his control to satisfy the Indian water budgets. CAP water is needed by the Community and is an accepted component in our agreed upon water budget with the negotiating parties. The Arizona Department of Water Resources (ADWR) and CAWCD reallocation plans must be junior to those of the Secretary to satisfy Indian needs.
2. The misconception of local entities in Arizona that the United States will pay for or provide a means for Indians to pay for CAP water must be discarded. The Community has witnessed 60 years of the United States Congress and the Administration's failure to adequately fund the San Carlos Indian Irrigation Project. Mr. Miller, we know that your Committee would not like to prolong this chronic lack of funding of water supplies intended for the Community's use. A positive, up front funding mechanism should be provided. Indian agriculture water prices must be no greater than and competitive with non-Indian agricultural (NIA) water prices.

3. CAWCD has determined the affordable price of CAP water for Arizona non-Indian agricultural use at a maximum of \$17 per acre-foot. The remaining issue is how the State of Arizona and the United States will pay for CAP OM&R while delivering Indians \$17 per-acre-foot agricultural water. A "postage stamp" rate for CAP municipal and industrial (M&I) and agricultural water use will not work.

4. The key to the success of CAP is to get water delivered. For agriculture to use water, it must be priced at \$17 per acre-foot. The Community needs the CAP water to satisfy the agreed upon water budget. The United States and Arizona need CAP water delivered to the Community at affordable prices and quantity to achieve a water settlement. Full use of Indian CAP water reduces the per acre-foot cost of fixed OM&R.

5. CAP was intended to provide an alternative water supply so that the State of Arizona would reduce its groundwater pumping. The major solution to the Community's water settlement is to ensure that the off-Reservation mining of groundwater from underneath the Reservation is reduced and mitigated. CAP must be kept alive to provide an alternative water source. Pinal Active Management Area (Pinal AMA) has a planned depletion not safe yield groundwater use goal. Any concession to groundwater pumpers in the Pinal AMA must be tied to the adoption of a safe yield goal. The planned depletion of groundwater for Pinal AMA will allow continued mining of water from underneath the Reservation, will not provide a long term solution to the conservation of the State's groundwater resource and will continue to place the United States at risk due to the mining of the Community's and allottee's groundwater.

6. Arizona must provide appropriate local contribution to Indian water settlements that provides for affordable water supplies.

7. A "Take or pay" provision that would require the Community to pay for water allocated but not ordered or used would be intolerable. CAP restructuring must be based on the payment for water ordered and delivered. "Take or pay" does not work for NIA, so why is CAWCD proposing to saddle Indians and United States with the same "take or pay" provision? The effect of a "take or pay" provision for Indians is to price water to Indians at a rate that Indians will not be able to use the water and be forced to sell it to non-Indians and M&I.

8. Indian contractors for CAP water must have equal access to water markets controlled by CAWCD and ADWR.

9. An Indian Water Users Board is being established to represent the common interests of the tribal participants' in decisions concerning CAP OM&R. The goal of the board is to assure that CAP water will be available to each tribal participant at an affordable price. We request Congressional and administrative support of our board. We appreciate your concern for Indian representation.

10. Until 1868, our ancestors maintained a balanced, riparian Gila River eco-system, even when they diverted the entire river flow into the "Little Gila". We want to restore some of the riparian areas. Current actions of the United States Fish and Wildlife Service

under the Endangered Species Act threaten to limit the ability of our Community to utilize existing Gila River water supplies and have impacted our use of CAP. Our use of Community resources, including agriculture, municipal and industrial use of water as well as riparian reforestation and habitat uses, must be adequately protected. Deliberations on the impact of CAP water deliveries to our Community are being carried out without our knowledge or representation. Any use by the Secretary of CAP water for environmental purposes must be considered only after satisfaction of the water budgets for Indian water use.

11. Starting in 1991, the Community requested that Reclamation contract with the Community for all of the work to be done on and off the Reservation in connection with CAP Indian Distribution Division facilities for the Reservation. The Community members are mature, capable, adult human beings and are the only ones that can decide what they want. The Community is the common link for the Reservation's multiple sources of water and funding from two Federal projects. The Community must be given control of the projects. Reclamation has not yet agreed or proposed a contract with the Community in two years. The Community has hired engineering consultants who should be paid with CAPIDD funds. The Community requests a full accounting and justification from Reclamation for the work completed and planned for the Reservation by Reclamation. Reclamation has not provided to the Community such a justification.

Mr. MILLER. Ms. Antone.

STATEMENT OF MARY ANN ANTONE

Ms. ANTONE. Good afternoon. My name is Mary Ann Antone. I am a member of the Water Resources Committee of the Tohono O'odham Legislative Council. I am also a Council Delegate representing the Tohono O'odham Nation.

I would like to recognize Councilmen Frances Francisco and Alberto Lopez, also here attending this hearing. I would like to introduce David Frank, the Nation's Attorney General, on whom I may be able to call to address any questions of a legal nature. Mr. Frank is sitting to my right.

On behalf of the Nation, I would wish to express our appreciation for the opportunity to present this testimony as part of the subcommittee's oversight inquiry regarding the Central Arizona Project. Significant quantities of CAP water will be required to settle the Nation's water claims. More than one year after congressional confirmation of the settlement, there has been no identification of the 28,200 acre-feet of water delivered to the Nation under the settlement legislation, nor has there been a quantification of the Nation's share of CAP water in the terminal storage facility now under consideration.

Likewise, we have received no assurance regarding the availability of sufficient CAP supplies to satisfy our water claims in the central and northern portion of the reservation.

From the Nation's perspective, there are three issues before the subcommittee: First, can there be reliable assurances regarding the financial integrity of the Central Arizona Project without resolving the water claims of the Nation and other Arizona tribes looking to CAP as a source of settlement water?

Assuming, as we do, that the answer to that question is, no, the second inquiry is regarding the quantity, reliability and cost of allocation of CAP water required to settle the Indian claims and the related consideration against depletion of our groundwater.

Finally, a process must be established to resolve the CAP component of the Indian water claims.

A written statement has been submitted for the subcommittee's consideration which outlines the Nation's water claims and sets forth our assessment and position on each of these issues. In the brief time available, I would like to highlight certain key points.

One, millions of acre-feet of the Nation's surface water and groundwater have been misappropriated.

Two, settlement of the Nation's claims include substantial quantities of substitute water to satisfy our rights to develop and to survive as an Indian community in perpetuity.

Three, CAP is a prime source of wet water for this purpose.

Four, to be acceptable as a substitute water source, the CAP water must, to the maximum extent possible, approximate the delivery and reliability of the water rights which were historically accessible.

Five, the capital and operation cost associated with the CAP water should not be imposed on the Nation. The Nation should not be placed in an ironic position of funding its own settlement. That responsibility lies on those legally accountable for the damages.

Six, there has been a failure to reach a common goal of the Arizona Groundwater Management Act and the Central Arizona Project to reverse overdrafting the groundwater by substituting imported Colorado River water to meet users' demands. Groundwater continues unabated, and the Pinal AMA controls it for the foreseeable future. As a consequence, one of our basins in the district which historically stored nearly 1 million acre-feet of groundwater has been virtually depleted.

Connected basins will suffer the same fate if these practices are allowed to continue.

Seven, depletion of groundwater must be ceased, whether by restrained withdrawals, or CAP legislation. We urge both steps be taken. The efforts to protect Indian groundwater will increase our damage claims. More fundamentally, the uncertainty regarding the magnitude of future losses negatively affects the prospects of any settlement whatsoever.

Eight, the Nation and other affected tribes have been foreclosed from direct participation and discussion on a range of issues involving the Central Arizona Project which impact our water claims. If frequently stated imperatives of resolving these claims are insincere, the settlement process must include a direct role for tribes as major parties throughout negotiations.

Mere consultation with tribes or involvement in an advisory content will not result in a fair and final settlement of our claims.

Again, I appreciate the opportunity to present our views to the subcommittee and would welcome any questions the Members may have.

Thank you.

Mr. MILLER. Thank you.

[Prepared statement of Ms. Antone follows:]

STATEMENT OF MARY ANN ANTONE, MEMBER
OF THE WATER RESOURCES COMMITTEE OF
THE TOHONO O'ODHAM LEGISLATIVE COUNCIL,
BEFORE THE SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS OF THE UNITED STATES
HOUSE COMMITTEE ON NATURAL RESOURCES

ON

THE CENTRAL ARIZONA PROJECT

Phoenix, Arizona

December 10, 1993

Chairman Miller and members of the Subcommittee on Oversight and Investigations of the House Committee on Natural Resources, my name is Mary Ann Antone. I am a member of the Water Resources Committee of the Tohono O'odham Legislative Council and a Council delegate representing the Sif Oidak District of the Tohono O'odham Nation. I would like to recognize my colleagues on the Water Resources Committee who are attending this hearing. Also, I would like to introduce David Frank, the Nation's Attorney General, on whom I may call to address any questions of a legal nature. On behalf of the Nation, I wish to express our appreciation for the opportunity to present this statement as a part of the Subcommittee's oversight inquiry regarding the Central Arizona Project ("CAP"). My remarks will focus on the critical role of CAP water in settlement of the Nation's water claims in the State of Arizona.

I. OVERVIEW OF NATION'S WATER CLAIMS

CAP water is the most likely source to settle the Nation's water claims pending in the Gila River Adjudication¹--(1) the Nation's claims in the San Xavier and Eastern Schuk Toak Districts situated within the Tucson Active Management Area ("AMA"), the settlement of which was legislatively confirmed by Congress in the Southern Arizona Water Rights Settlement Act of 1982 ("SAWRSA") and (2) the Nation's claims in the Sif Oidak District and those portions of the Gu Achi, Sells, Schuk Toak and HICKIWAN Districts located in the Pinal AMA (commonly referred to as the "Chuchu" claims). The latter claims have not been settled, but formal settlement discussions are expected to be initiated in the near future.

I am unable at this point to precisely quantify the number of acre-feet of CAP water which will be necessary to fairly and finally implement SAWRSA and settle the Chuchu claims. Under SAWRSA, the Nation is entitled to receive 66,000 acre-feet of surface water, 37,800 acre-feet of which was granted to the Nation prior to enactment of SAWRSA as part of the Interior Secretary's allocation of "tribal homelands" water to Arizona Indian Tribes.² CAP is the prime source for the remaining 28,200 acre-feet of surface water which is deliverable to the Nation under Section 305

¹ In Re the General Adjudication of All Rights to the Water in the Gila River System and Source, CC04 33390, No. W-1, W-2, W-3, W-4 (Maricopa County Super. Ct.).

² See allocation notice published at 45 Fed. Reg. 81,265 (1980), as reaffirmed in notice appearing at 48 Fed. Regis. 12,446 (1983). This water is identified in Section 303 of SAWRSA as the irrigation supply for the farms required to be developed under that section.

of SAWRSA but not yet identified.³ Finally with regard to SAWRSA, an unquantified number of acre-feet of CAP water will be required to assure delivery of the Nation's 66,000 acre-feet of surface entitlements during outages in the CAP system or other delivery interruptions.⁴ Ongoing discussions among the Bureau of Reclamation, the City of Tucson, the Nation and other water users in the Tucson basin are focused on storage of CAP water in a surface reservoir for use during periods when outages occur in the system. Agreement has not been reached on the size of the terminal storage facility, number of acre-feet of CAP water to be stored for the Nation's use and other measures necessary to assure uninterrupted water deliveries to the Nation. Determining the cost of the project is tied to resolving these issues.

Until formal negotiations commence, I am not at liberty to publicly disclose the Nation's damage and water quantification assessment with respect to the Chuichu claims. I can only say that the number of acre-feet of CAP water required to settle these claims will be considerably beyond the 8,000 acre-feet of CAP Indian agricultural water previously allocated by the Secretary for Chuichu.⁵ The damages associated with the Chuichu claims are likewise substantial, and increase daily as a result of continued mining of the Nation's groundwater by non-Indians.⁶

II. SETTLEMENT OF INDIAN WATER CLAIMS

Fundamental to resolving the water claims of the Nation and other desert Tribes is the identification of sufficient quantities of water, with assured reliability in delivery and quality, which will enable the Tribal community to develop and sustain itself.

³ Several other key settlement terms have not been satisfied. See joint statement of the Nation submitted on August 6, 1992 to the United States Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs on S. 3125 and H.R. 5735 amending SAWRSA.

⁴ On October 11, 1983, the United States and the Nation entered into an agreement implementing the SAWRSA settlement. Section 10.1 of that agreement provides that the United States (acting through the Secretary of Interior) "shall construct any necessary facilities, such as those for storage or re-regulation, to enable the Secretary to meet ... delivery requirements" for the 66,000 acre-feet of surface water. Sections 304(c) and 305(d) of SAWRSA impose damage liability on the United States in the event these water supplies are not delivered.

⁵ See allocation notice and reaffirmation cited in footnote 2.

⁶ See discussion at subsections II (C) and (D) below.

Access to water resources in the arid southwest is obviously critical to survival.

Fair and final settlement of major Indian water claims in central and southern Arizona is an essential component of any plan to place CAP on a sound financial foundation. CAP will inevitably be a primary source of settlement water. The amount of CAP water required to resolve Indian claims, and the terms for payment of related capital and operational costs, are the key unknown factors in the equation. What is known is that sufficient and reliable supplies of wet water must be made available to assure the continued viability of Indian communities in the future; paper rights and monetary payments are not adequate substitutes.

The frequently-expressed imperative of settling Indian water claims, however sincere as an aspirational statement, has not been translated into development of an effective and comprehensive plan to accomplish that objective. Moving the settlements to an equitable conclusion must proceed in the context of and parallel to other aspects of whatever long-term restructuring is necessary to maintain the financial integrity of the Central Arizona Project.

Attention to the Indian issues often appears to be an afterthought when systemic problems arise. The system is perceived as insensitive to Indian concerns and responsive to the demands of non-Indian users which serve to move CAP water supplies away from the resource pool needed for Indian water settlements. Among the examples which might be cited are reallocations of non-Indian agricultural water, extension of deadlines for subcontracting municipal and industrial supplies, and deferral of the declaration of project completion. Recently, there has been intensified attention to deficiencies in CAP triggered by the financial dilemma confronting the non-Indian agricultural sector, including the reported renegotiation of subcontracts for delivery of non-Indian agricultural water at a subsidized price in the range of \$17 per acre-foot (apparently with little or no regard to the impacts on Indian interests). In short, the evolving framework for CAP restructuring has placed the Indian implications in a seemingly subsidiary and certainly ambiguous position.

Now is the time to recast the criteria for CAP restructuring by changing the current focus on non-Indian concerns to an equitable settlement of the Indian claims as a priority step and premise for dealing with the problems affecting non-Indian agriculture and other issues. A substantial block of CAP water must be reserved for these settlements given the dimensions of the Indian claims and the absence of sufficient alternative sources. Reaching conclusive settlements will necessarily entail determinations regarding payment of the related costs of water delivery. Until those costs are quantified and apportioned, development of a comprehensive financial plan for future operation of the CAP system is guesswork.

The inquiry begins with an understanding of the nature of Indian water rights, the legal accountability of the United States and local interests for the claims, and the consequences of deferring affirmative action to accurately identify the parameters of the Indian claims and reserve the CAP water reasonably necessary for settlement.

A. Nature of Winters Right

Indian water rights are unique and markedly superior to rights held by non-Indians under State law. Indian rights basically derive from the Winters doctrine announced by the United States Supreme Court in 1908.⁷ The Court determined there was impliedly reserved for Indian Tribes sufficient water to satisfy the purposes for which their Reservations were established. While there were certain differences in purpose, the common reason for creating Reservations was to provide a homeland for Indian people. Broadly put, the Winters right attaches to that quantity of surface water and groundwater reasonably required to preserve viable Indian communities in perpetuity.⁸ The range of permissible uses is necessarily expansive to accommodate whatever needs are associated with maintaining the homeland.⁹ Non-use of the right does not cause an abandonment or diminishment in the quantity of reserved water or scope of its use. Finally, the Winters right has a priority at least as of the date the Reservation was established which generally means the right is senior to whatever water rights

⁷ Winters v. United States, 207 U.S. 564 (1908).

⁸ Winters and its progeny largely focused on the application of the reserved right to surface water. While there is arguably no definitive ruling on whether the right attaches to groundwater, later cases and the rationale of Winters are compelling support for the conclusion that the right extends to groundwater supplies. Survival of Indian Nations is the predicate of the right, not the physical location of the water.

⁹ Quantification of the Winters right using the "practicably irrigable acreage" standard does not operate to limit use of the water for agricultural purposes, nor is the exercise of the right tied to the lands for which the quantification was performed. There are also notions that the right cannot be permanently alienated or transferred for use outside the Reservation which, for example, raise questions about leasing the water right. The issue of when a lease would contravene these restrictions is often clarified in legislatively-confirmed settlements by provisions defining tribal leasing authority.

are held by non-Indians.¹⁰

The seniority of Winters rights is, of course, particularly significant in arid regions like Arizona where demand for water exceeds the lawfully available resource. All water withdrawn or diverted by non-Indians is clouded by claims of interference with senior Winters rights, with clear negative implications for State population growth and economic development. Short of pursuing an adjudicated result, typically after decades of litigation, the encumbering effect of the Winters right can only be removed through settlement of the Indian claims.

B. Liability for Damage to Winters Right

Legal accountability for Winters claims is shared by the United States, State and local governments, and private water users. Indian water resources are trust assets which the United States bears a trust responsibility to preserve and protect. The United States breached the fiduciary duty owed to Indian Tribes through a long-standing failure to prevent misappropriation of the Winters right by non-Indian diversions and groundwater withdrawals. Non-federal parties are also subject to liability, whether through adoption of water management practices which interfere with Indian rights or actual appropriation of Indian water resources.

C. CAP as Source of Settlement Water

Overdrafting groundwater and surface water diversion by non-Indian users have caused a severance (in some cases probably irreparable) of the mutual self-sustaining relationship between surface water and groundwater within the Nation. As a consequence, intermittent or perennial stream flows, available for Nation's use at or prior to the date when the Reservation was established, have long since disappeared, and many groundwater tables have dropped to points where the water resource is effectively depleted or only accessible at excessive lift costs. Remediation of the injuries to the water rights under these circumstances must focus on providing substitute water supplies, as well as taking necessary steps to preserve the Nation's remaining groundwater resource by limiting non-Indian withdrawals.¹¹

Considering the legal obligations owed to the Nation and the nature of our water rights, at minimum the substitute water

¹⁰ An earlier date of time immemorial, commonly called aboriginal priority, is based on the legal principle that Indians reserved all water and other rights historically held which were not expressly ceded to the federal government in the treaty or executive order establishing the Reservation.

¹¹ See discussion in following subsection II (D).

should carry those rights which are the fair equivalent to the Winters rights appurtenant to the misappropriated water.¹² Further, the substitute supply should be delivered to a point on the Reservation where it is as reasonably accessible for use as the water it serves to replace. "Take-or-pay" obligations should neither be imposed on Indian priority water nor retained if non-Indian CAP water is used in settlements; the financial burdens of take-or-pay operate to force an effective abandonment of the water right which is incompatible with the Winters doctrine. Whatever capital, operational or other costs are associated with the delivery must be borne by those accountable for the damaged Winters right; the Tribe should not bear the burden of paying for its own settlement.

In the context of CAP water as a substitute source, the critical factor is fair equivalency in delivery reliability. CAP water originally allocated to Tribes, although within the highest priority designation shared by municipal and industrial ("M&I") water users, is a significant reduction from the clear seniority of the Winters right relative to M&I and all other water users. In times of shortage, non-Indian agricultural water has an even more junior call on available supplies. To avoid exhausting the pool of Indian settlement water, steps need to be taken to foreclose further reallocations, exchanges or other transfers to non-Indian end users; to supplement reliability of available supplies; and to adopt a framework for acquiring water now under contract. While recognizing that this temporarily implicates non-Indian water interests, the paramount water rights of Indian Tribes must be nonetheless protected by preserving an inventory of wet water for settlements.

D. Non-Indian Groundwater Mining

The prospects for concluding Indian water settlements are made even more problematic because of State water practices which condone the continued depletion of Indian groundwater. As a necessary condition to federal financing of the Central Arizona Project, the State of Arizona adopted a Groundwater Management Act which was intended to reverse historical overdrafting of groundwater by limiting withdrawals to levels compatible with safe-yield. Water imported from the Colorado River through the Central Arizona Project was to serve as the substitute source to meet user needs.

The reality is that mining groundwater, and in particular Indian groundwater, continues unabated. For example,

¹² Failure to satisfy fair equivalency criteria raises credible claims for violation of the Fifth Amendment "takings" clause and breach of fiduciary duty. See United States v. Sioux Nation of Indians, 448 U.S. 371 (1980).

the State has designated the Pinal AMA as a "managed" depletion zone which permits non-Indian pumpers to continue groundwater withdrawals at least to a depth of 1,200 feet. Unlike the Phoenix and Tucson AMA's, there is no requirement that Pinal reach safe-yield.

This water policy has a devastating effect on the Nation. The Chuichu area of the Sif Oidak District is adjacent to major off-Reservation irrigation projects. For decades, the non-Indian farmers have mined the Nation's groundwater. As a consequence the Chuichu sub-basin of the Nation's Santa Rosa basin, which historically stored nearly one million acre-feet of groundwater, has now been virtually depleted. The groundwater levels in other portions of the Santa Rosa basin and the connected Aguirre basin within the Nation are dropping as well and risk suffering the fate of Chuichu if the non-Indian pumping is not restrained.

As our water tables continue to drop, there is a commensurate increase in both our damage claims and the quantities of CAP water required to reach settlement. If depletion practices continue, we are faced with uncertainty regarding the extent of our groundwater loss in the future. This very uncertainty does not bode well for concluding a settlement in the near term.

There is a current opportunity to restrict groundwater withdrawals in whatever renegotiated delivery subcontracts are entered in to for purposes of granting subsidized CAP rates to non-Indian agriculture. In addition, the Nation encourages the Subcommittee to consider federal legislation which mandates safe-yield practices for all non-Indian users of CAP water.

III. CONCLUSION AND RECOMMENDATIONS

In the more than 11 years since SAWRSA was enacted, the United States has failed to identify a major portion of the water resources called for by the settlement. The dimensions of the Nation's Chuichu water claims have not been assessed by the federal government, and the quantities and terms of CAP water required to be reserved for settlement have not been identified. Policies and positions are being adopted or formulated, and delivery subcontracts renegotiated, which directly and significantly impact the Nation's water claims, all without direct participation by the Nation. The Nation is unalterably opposed to a continuation of a process which constrains us in protecting our legal interests except through occasional consultations or participation in advisory organizations.

Significant issues affecting our water rights have been addressed and will be negotiated in the future under the guise of CAP restructuring. We have the legal right to be present at the

table as a party to assure our interests are protected. Representation of our interests solely through the Bureau of Reclamation, the Bureau of Indian Affairs or other federal agencies is unacceptable. Our direct participation as a party is also compelled by the federal policies supporting Indian self-government and the government-to-government relationship between the United States and Indian Nations.

With these considerations in mind, we recommend:

1. Establishment of a federal team by the Secretary of Interior to develop the principles on which negotiations will proceed on CAP issues. The Nation and other affected Indian Tribes would be members of this team and direct participants in any ensuing negotiations, whether those negotiations are conducted with the State of Arizona, CAWCD or others. A primary task of the group would be to accurately identify the quantity of CAP water required to be reserved for Indian claims.

2. Until an adequate reserve of CAP water is identified and set aside for Indian settlements, declaration of a moratorium by the Secretary on approval of all reallocations, exchanges or transfers of CAP water, as well as approval of CAP pricing adjustments or other modifications in non-Indian delivery subcontracts.

We hope these proposals are received in the cooperative spirit intended and with an understanding of our objective to secure adoption of a constructive approach to CAP restructuring which gives substance to the stated importance of reaching settlement of Indian water claims. This concludes my statement. I would be pleased to answer any questions members of the Subcommittee might have.

Mr. MILLER. Mr. Preston.

STATEMENT OF DANIEL PRESTON

Mr. PRESTON. Thank you, Chairman Miller, and the Arizona delegation, for many here today in Arizona. I am surprised that you were here to tour the lands, and I would hope that you would have had the opportunity to come to San Xavier to see our lands and, I guess, the concerns that we have dealing with the property in San Xavier.

My name is Daniel Preston. I am the vice chairman of the San Xavier District. The San Xavier District is one of the districts that make up the Tohono O'odham Nation. San Xavier is 72,000 acres, and we are broken up in tribal lands and allotted lands. There are 60 percent of allotted in San Xavier and 40 percent of tribal lands.

As you can see by my testimony, I am here representing my district. Our community is about 1,300 plus individuals that live within our district. And I am also representing the San Xavier Farm Cooperative. We have 1,000 acres of farmland that are leased by individual allottees that own property in the San Xavier District.

And also I am an allottee that is in the farm cooperative. I am also a member of the San Xavier District Allottee Association which is made up of the group of the 60 percent of landownership within San Xavier. And as you know, the Allotment Act was one of the things that has caused some concern between tribal governments and allottees dealing with water rights.

As you know, there was a lawsuit that was filed in 1975, *U.S. v. Tucson*, which I guess was filed merely on lands that were irrigated by the allottees. To date, we have also filed a new lawsuit, which is *Alvarez v. Tucson*. The San Xavier water rights are still in active litigation as of today. And we have intensified our efforts to negotiate a final settlement before any judgment is issued on *U.S. v. Tucson* or *Alvarez v. Tucson*.

The Southern Arizona Water Rights Settlement was passed in 1982, and the allottees feel that we were not accurately represented at that point in time. The Southern Arizona Water Rights provides for delivery of 27,000 acre-feet of CAP water to San Xavier. Under section 305 of SAWRSA, it also states that 23,000 acre-feet of CAP or sewage water, effluent water, is also to be given to the San Xavier area, totaling 50,000 acre-feet.

Tucson, as far as we understand, needs to accept their CAP water as far as our district is concerned, because Tucson and ASARCO must stop depleting our groundwater. Otherwise, the objectives of the Arizona Groundwater Management Act cannot be met. As far as I understand, these laws and regulation are put on people we feel should be abided by, because we respect those laws and understand these laws to help protect the health and safety of human beings.

We have, I guess, existed in this area which the O'odham people call Schuk Shon, which people now call Tucson. My community is called Wok, which translates into "the point of the water." And we as a people have lived side by side with our non-Indian neighbors.

The defendants in our water litigation have proffered that, economically, since their relatively recent arrival in our area, by unlawfully taking our water supply, non-Indian use of our water has

changed the once flowing San Xavier River into a dead, dry arroyo because of the groundwater depletion. Green riparian zones are now completely gone, as is our mesquite forest, not to mention the wildlife, and also our culture and our traditions of the use of growing traditional crops for our people to feed ourselves.

While Tucson lawns and golf courses are growing greener, our reservation becomes barren and polluted as the direct result of non-Indian development. We once irrigated and grew crops on more than 2,200 acres of our reservation. We now irrigate only 9.5 acres because of lack of water. Moreover, more than 200 formerly irrigated acres have been lost to erosion by the Santa Cruz River, and more than 600 acres of our farms have been ruined by sink holes caused by groundwater overdrafting.

We have major concerns over the Central Arizona Project water. One of them is, Will CAP deliveries be a permanent water supply for us to use for the groundwater and the other waters that have been taken from us as O'odham people? Will CAP water decline in the future? Also, San Xavier must receive water for recreational and agricultural and other uses. And some of those other uses we are looking at seeing that we can bring back our riparian area that once grew a healthy mesquite forest within San Xavier.

Also, in section 313 of SAWRSA, which is called the "Cooperative Fund," we feel that there isn't enough funding to pay back the OM&R for delivery of our water. We feel that this cooperative must be increased. The OM&R costs for Indian waters, we feel, should be kept at a minimum because of the damage to our lands as well as to us as a people.

The SAWRSA section 305 water that provides for delivery of 23,000 acre-feet of CAP or Tucson's sewage effluent to San Xavier, we would like for Congress and/or the Secretary of the Interior to make a commitment now to deliver CAP rather than sewage.

We feel that providing additional CAP to meet the demands of our Tohono O'odham Nation would help break the deadlock in our negotiations as we feel today.

So I will go ahead at this time and ask the chairman or committee members if I can answer any questions.

Thank you.

[Prepared statement of Mr. Preston follows:]

TESTIMONY OF DANIEL PRESTON, REPRESENTING THE SAN XAVIER
RESERVATION COMMUNITY, ON THE CENTRAL ARIZONA PROJECT

Before the United States House of Representatives
Committee on Natural Resources

December 10, 1993

My name is Daniel Preston. I was raised on the San Xavier Indian Reservation, where I now live. I am the Vice Chairman of the San Xavier District Council. The San Xavier District Council is the governing body of the San Xavier Reservation. I am also a member of the Board of Directors of the San Xavier Cooperative Association, which oversees the operation of the San Xavier Cooperative Farm. The Cooperative Farm is located on individually allotted Indian trust lands on the Reservation. I am also an allottee, a member of the San Xavier Allottees Association, and a plaintiff in both U.S. v. Tucson and Alvarez v. Tucson. The San Xavier Allottees Association represents the 1300 individual Indian trust allotment owners on the San Xavier Reservation.

I am here representing the Wa:k Village community of the San Xavier Reservation, the San Xavier District Council, the San Xavier Cooperative Association and the San Xavier Allottees Association. Wa:k is the name of our ancient Tohono O'odham Village on the San Xavier Reservation.

I appreciate the opportunity to testify to this Committee and state our concerns about the CAP.

The Eastern portion of the San Xavier Reservation was allotted to individual Indians in 1891. In 1974 the United States filed suit against the City of Tucson and other groundwater users for damages and an injunction to protect the San Xavier Reservation allotment water supply. We are entitled to a large proportion of the average annual recharge to the Tucson Basin under the Winters Doctrine of reserved Indian water rights. 98% of the irrigable land involved in U.S. v. Tucson is allotted.

In 1982 Congress enacted the Southern Arizona Water Rights Settlement Act. SAWRSA offers a settlement in U.S. v. Tucson which can only be fully implemented when U.S. v. Tucson is dismissed.

U.S. v. Tucson has not been dismissed, and is still in litigation, along with a recently filed companion case called Alvarez v. Tucson. The San Xavier District and the San Xavier Allottees have opposed the dismissal of U.S. v. Tucson, and we recently filed Alvarez v. Tucson, because SAWRSA does not offer a settlement that is acceptable to us.

While we are confident that we will ultimately prevail in U.S. v. Tucson and Alvarez v. Tucson, we recently intensified our efforts to negotiate a settlement of these cases. The San

Xavier Community believes that a workable settlement must be fashioned by all parties concerned and that our proposed amendments should be incorporated into any amendments to SAWRSA passed by Congress. We are hopeful that negotiations can be completed before any judgment is issued in U.S. v. Tucson or Alvarez v. Tucson.

Under SAWRSA, the San Xavier Reservation is to receive either 27,000 acre-feet or 50,000 acre-feet of CAP water annually. SAWRSA §303 provides for the delivery of 27,000 acre-feet of CAP water. SAWRSA §305 provides for the delivery of an additional 23,000 acre-feet of CAP water or Tucson sewage effluent. The Secretary of the Interior has the discretion to decide whether to deliver CAP water or sewage under SAWRSA §305.

It should be noted that other entities in the Tucson Basin are supposed to use CAP water, not just San Xavier. This includes the City of Tucson and the ASARCO Mining Company, both of whom are defendants in U.S. v. Tucson and Alvarez v. Tucson. It is essential that the City and ASARCO stop pumping and depleting our groundwater, and use their allocations of CAP water instead. Otherwise we will continue to seek a judicial remedy to prevent further mining of groundwater from beneath our Reservation. The Arizona Groundwater Management Act was intended to stabilize the groundwater table by reducing groundwater pumping to "safe yield." This objective obviously cannot be met if the City, ASARCO, and the other major groundwater users do not switch to CAP water.

Our non-Indian neighbors, the defendants in our water litigation, have profited economically since their relatively recent arrival in our area, by unlawfully taking our water supply. (We, the O'odham, have known this area since time immemorial as Schuk Shon, which translates as Black Bottom Basin. Non-Indians now call it Tucson.) Non-Indian use of our water has changed the once flowing Santa Cruz river into a dead, dry arroyo because of groundwater overdrafting. Once green riparian zones are now completely gone, as is our mesquite forest. While Tucson lawns and golf courses grow greener, our Reservation becomes more barren and polluted as the direct result of non-Indian development. We once irrigated and grew crops on more than 2200 acres of our Reservation. We now irrigate only 9.5 acres because of lack of water. Moreover, more than 200 formerly irrigated acres have been lost to erosion by the Santa Cruz River, and more than 600 acres of our farms have been ruined by sinkholes caused by groundwater overdrafting.

We have several major concerns about the CAP and its impact on the San Xavier Reservation.

Our first and greatest concern is about the ability of the CAP to continue delivering water to our Reservation over the long-term. The CAP water which SAWRSA is intended to provide to the San Xavier Reservation is a substitute water supply for our natural water supply, which has been unlawfully appropriated by the City of Tucson and other defendants in U.S. v. Tucson and Alvarez v. Tucson.

Our priorities are to restore our ancient agricultural economy, to expand our agricultural

production if possible, to ensure an adequate water supply for our future, and to restore the riparian habitat in the Santa Cruz River that groundwater overdrafts have destroyed.

We must have the CAP water supply guaranteed on a permanent basis. The very existence of our community and our unique culture depends upon our water supply. If for any reason this water supply is not available at any point in the future, our community and our culture will die.

We are aware that the CAP's priority for diversions from the Colorado River is very late - 1968, although Indian water holds a top priority within the CAP. We are also aware that as development proceeds in the Upper Basin states of the Colorado River drainage, the supply of water available to the CAP will decrease. Our very great concern is that as Upper Basin water use increases, and if climate change occurs, possibly brought on by global warming, there will not be enough water to satisfy the CAP Indian water delivery requirement. There is also danger that a warmer climate in the Colorado River Basin and Arizona will seriously increase the salinity of water delivered to us down at the end of the CAP delivery system. We already anticipate some problems with using CAP water to restore our Reservation agricultural economy. Greater salinity may make it impossible for us to use CAP water for agriculture at all. The Tucson Daily Star reported last week that a possible 15 to 20 percent decrease in Colorado River flows will cause a similar percentage increase in the salinity of CAP water. The salinity increase will be even greater at the end of the delivery system, where we are located. For these reasons, we frequently ask ourselves if it is wise for us to agree to take CAP water at all to replace our natural water supply.

We want specific assurances that the CAP will provide a permanent substitute water supply to the San Xavier Reservation. We also want accurate data to support any such assurances. Similarly, if the quality of CAP water delivered to San Xavier is likely to be any worse than we have been told thus far, we want to know that now, rather than later.

Our second concern is that we have enough good quality water for domestic, recreational, and other uses requiring good quality water, including production of salt sensitive crops. CAP water is not good quality water, unless it is treated.

Our third concern is that OM & R costs for the delivery of Indian water be kept as low as possible. Because CAP water is a substitute water supply for us, as part of the Southern Arizona Water Rights Settlement, it is to be delivered to our farms free of charge. However, the OM & R is to be paid out of the §313 Cooperative Fund under SAWRSA. The Cooperative Fund is not big enough to pay the OM & R to deliver our full allocation of water for more than a few years, even at the present rate of \$36 per acre-foot. If the OM & R cost for our water goes to \$130 per acre-foot, as presently anticipated, the Cooperative Fund will only be able to pay for water deliveries for two or three years. The alternative is to increase the Cooperative Fund from its present \$22 million to the \$70 to \$100 million range. This would require a minimum appropriation from Congress of \$50 million.

SAWRSA §303 provides for the delivery of 27,000 acre-feet of CAP water to San Xavier. SAWRSA §305 provides for the delivery to San Xavier of an additional 23,000 acre-feet of Tucson's sewage effluent. SAWRSA allows the Interior Department to deliver CAP water instead of sewage effluent for the §305 water. In fact, we believe the parties who negotiated SAWRSA contemplated that an additional 23,000 acre-feet of CAP water actually would be delivered to San Xavier under §305, rather than the sewage effluent. This is in part because there is no provision for a system to deliver the effluent. Our fourth concern is that the Secretary of the Interior make a binding commitment at the earliest possible date to deliver CAP water rather than effluent under §305.

We believe the BOR has an obligation to provide terminal storage for our allocation of CAP water under SAWRSA. No agreement has yet been reached with the BOR for terminal storage. Our fifth concern is that the BOR's terminal storage obligation be fulfilled.

Lastly, we believe that an additional allocation of CAP water could break the impasse in U.S. v. Tucson and Alvarez v. Tucson and lead to an agreement that would allow the full implementation of SAWRSA. SAWRSA has not been implemented - in part because the Tohono O'odham Nation claims to own all of the water to be delivered to San Xavier under SAWRSA. The organizations that I represent contend that most, if not all, of this water belongs to the individual Indian allottees on the San Xavier Reservation, and to the San Xavier community. San Xavier's SAWRSA water is intended to substitute for the natural water supply that the non-Indians have taken from us, and which is the subject of the litigation in U.S. v. Tucson and Alvarez v. Tucson. Our present deadlock with the Nation might be broken if more CAP water can be added to SAWRSA to satisfy the Tohono O'odham Nation's needs. I am asking this Committee to explore that possibility.

Please consider our concerns carefully in any future legislation affecting the CAP and the San Xavier Reservation.

ATTACHMENT A

Global warming threatens CAP water, researchers say

By Enric Volante
The Arizona Daily Star

Global warming could reduce flows in the Colorado River, making less water and more salt flow through the Central Arizona Project to thirsty cities like Tucson, a new study says.

Researchers found that the Colorado River basin is "extremely sensitive" to changes in climate that could occur over the next few decades from the so-called greenhouse effect.

The river is the main water source in a basin that covers 243,000 square miles in the western United States and northern Mexico. Parts of Tucson began getting Colorado River water via the CAP late last year.

The new study shows that rising global temperatures would have dramatic impacts on hydroelectricity production, water salinity and reservoir levels, said Peter Gleick, a senior research associate of the Pacific Institute for Studies in Development, Environment and Security, based in Oakland, Calif.

The non-profit institute conducted the \$130,000 study over 2½ years for the U.S. Environmental Protection Agency.

Researchers found that even though rain and snow may increase under global warming, a simultaneous increase in evaporation and in water use by plants would cause a net decrease of 8 percent to 20 percent in surface water

runoff.

"If flow decreases, the Central Arizona Project is one of the most vulnerable points," because other states have higher-priority rights to Colorado River water in times of shortage, Gleick said in a telephone interview yesterday.

And, unlike states in the upper basin, the water is already high in salts by the time it reaches lower-basin states like Arizona.

If global warming reduces Colorado flows by 20 percent, salinity would go up 15 percent to 20 percent, Gleick said.

Larry Dozier, assistant general manager of the Central Arizona Water Conservation District, which operates the CAP, said yesterday that the study "doesn't tell us anything new or startling."

He said 50-year forecasts by the federal Bureau of Reclamation, the Arizona Department of Water Resources and the water district show that the CAP will be able to provide at least 75 percent of the normal water supply to cities and tribes nearly all the time.

Those studies do not consider the possibility of global warming, he acknowledged.

But during drought periods lasting a few years, cities like Tucson can temporarily return to pumping ground water, he said. And if the water gets saltier, as predicted in the EPA study, people can still drink it or can elect to remove the salts, he said.

The Arizona Daily Star

Tucson, Saturday, December 4, 1993

Mr. MILLER. Thank you.

Thank you all for your testimony. If I might ask you a question—can you all comment on it—and that is: I have raised a number of times this morning this issue of the target pricing and how various panels thought that would play itself out over the long term. I just wondered if you have any thoughts on that.

Ms. ANTONE. I guess I have to respond to that because one of the things I mentioned is that we haven't been a party at the table with other entities discussing this issue, and I think we should be afforded the opportunity. But that is something that we have to do a lot of studying on to see if it is feasible for our tribe.

Mr. MILLER. What is the range of water prices, cost of delivery, that the reservations experience now?

Mr. WHITE. The impact we have with the CAP delivery, three or four years ago, when we did the inter-connect during our drought season, raised up to about \$38.

Mr. MILLER. That is the price of water to the reservation?

Mr. WHITE. That was the price charged.

Mr. MILLER. What about in the case of the Tohono O'odham?

Mr. PRESTON. We are not receiving the benefits of CAP water. Under SAWRSA, it was mandated that the United States deliver the Central Arizona Project water by October 12 of 1992.

That date has since come and passed. As far as I know, there were technical amendments in Congress, I guess, to allow the deadline to be extended.

And also there was agreement to go ahead and allow the Tohono O'odham Nation to lease the water that was supposed to arrive in San Xavier to the city of Tucson.

As far as I understand, the farm cooperative and the San Xavier District do not approve of it. But as far as we understand, we are still waiting to receive the amount of water that was supposedly given to the district for, I guess, the groundwater and surface water that has since depleted. And we are still waiting since 1982, since the SAWRSA was passed.

Ms. ANTONE. Our pricing is the same as the Cooperative Fund would pay for that on behalf of the Federal Government. But we haven't had any delivery of CAP water. So there is no delivery at this point.

Mr. MILLER. Mark DeMichele, on behalf of the Governor's Advisory Committee, in his testimony, urged the expedited settlement, if you will, of the various water settlements outstanding. And one of my concerns today is, when I listen to the testimony, that Federal actions, whether they are unilateral actions or what have you, are anticipated or sought on behalf of both the plan of CAWCD, and to some extent the Governor's Advisory Committee but more importantly with the district, down the road. Either reallocating defaults, if they should take place, into O&M or target pricing could make Indian water settlements much more expensive for the Federal Government, if you look at the historical role of the Federal Government in those terms.

And I say that in the context of two points. One is that politically when this committee brings to the House Floor Indian settlements of any kind—land settlements, water settlements what have you—very often they are not without controversy. Not everybody shares

the same concern or sense of obligation about Indian settlements, and very often Federal costs are raised that might not be raised on a similar action in a non-Indian situation.

And that being the case, I guess the point I am trying to get to here is: It seems to me that the resolution of the issues surrounding the future of the Central Arizona Project and Indian water settlements have to be one and the same.

Historically, these water projects have gone forward. This is a strange panel to be saying "first in time" to, but if you were first in time politically, if you will, and you had enough gall, you could take care of features that you wanted to take care of and other people just waited. In California that would mean that the environmental interests waited because there wasn't the political structure to force that issue. In North Dakota it became the Indian water features that were so prominently displayed at the outset to get the Congress to buy the Garrison Project. They were never dealt with, and it happened many years later where we said, "Wait a minute. You promised these things."

Here again we are down to kind of the last of the Indian water settlements, and my opinion is—and I would like you to comment—if we don't address all these issues together, it can be more difficult for Indian water settlements that come after this to get through the Congress than they would be if joined as a comprehensive solution.

I don't know whether you agree with that or not. That is just my opinion after listening to several days of comments and this morning's testimony.

You are free to comment or not.

Mr. WHITE. From the onset of our negotiation when we started talking about Indian water settlements, we felt at that time that we needed to separate the Indian water settlements issue apart from the CAP allocations for a long period of time, simply because we felt that our Indian water rights issue was the litigation, and it was composed of what the Federal Government foresees as a 1.5 million acre-feet entitlement for our Community; and the other being a contracted position through the United States Government.

After much negotiation, we arrived at a 253,500 acre-feet water budget, on the concept that we all agreed to it and came to some terms with our surrounding cities and towns.

We felt that the CAP was part of the Gila River Indian Community. And if it is possible, we would preserve the rights of the cities and towns to use that CAP for that Indian water settlements, which would probably be acceptable.

And also working on these bases, we were given the opportunity to market and to compete administratively in the affordable pricing as anyone else is. And as far as our contract with the United States Government, as far as farmers with the CAWCD, their entitlement is as much, and maybe ours is more, with the United States Government than the farmers of the State of Arizona.

Mr. MILLER. So you would argue to continue to keep them separate?

Mr. WHITE. Right. Now I think we will come to the terms that we would probably link them together and see what can be solved out of the whole solutions, you know. As we said in the Advisory

Committee for the State of Arizona, I think what we talked about, this water is in the State of Arizona, it belongs to us, we are all in it together. And I think that part of the thing is, you know, if you maintain reasonably to see that the State wants to see the water stay in Arizona, maybe they need to comply and swallow the whole hardship that nobody wants to touch it, they need to put it into Indian water settlements.

Mr. MILLER. Ms. Antone.

Ms. ANTONE. I think SAWRSA kind of addresses this problem already for us, both during the litigation and also the allocation of CAP water; and I think that, speaking on behalf of the Nation, even though we do have our internal problems, we have accepted SAWRSA. And I think that the implementation is the problem that we are having. How do you start implementation settlement? And especially in our allocation there are certain things that need to be done under SAWRSA.

So the management plan for the main reservation, and one of the problems we have been having is funding for that.

So it already addressed that issue. And I think the Nation is satisfied with that.

Mr. MILLER. You will keep the cards you have been dealt so far? Okay.

Mr. Preston.

Mr. PRESTON. Chairman Miller, at this time I would like to introduce our attorney. His name is Mr. Thomas Luebben, and I don't know if he has any comments to that also. But I would just like to say that, as far as San Xavier is concerned, within SAWRSA, we feel that the CAP water that has been offered to us and also the effluent is for payment for, as far as we can see, the loss of our groundwater and also the damage, I guess, what has happened with our surface water.

I don't know if Mr. Luebben might want to add anything to that.

Mr. LUEBBEN. Well, I think with respect to Chairman Miller's question, it appears that all of these problems are rather inextricably linked. Certainly what happens at San Xavier is dependent to a great extent on how the pricing arrangements were made.

And we appreciate the committee's concern or the concern that has been expressed about the proposal that CAWCD has made which will allocate a greater proportion of the OM&R to the Indian water than would otherwise be the case under the original arrangements that were contemplated.

That has a serious impact on San Xavier because the Cooperative Fund of section 313 of SAWRSA is inadequate. It is supposed to deliver the water free of charge to San Xavier as a substitute water supply for the water that was taken by the defendants in *U.S. v. Tucson and Alvarez v. Tucson*.

But if the price for OM&R goes to the projections that CAWCD has provided and if the full 50,000 acre-feet allocated to San Xavier is delivered, the Cooperative Fund will be very quickly depleted in as little as three years.

Some concern has been expressed by the Gila River representative which ties into what you, Mr. Chairman, have said about Congress' current financing problems. There is concern that Congress

won't necessarily fund the Cooperative Fund for the indefinite future to maintain the full delivery of the 50,000 acre-feet of water.

That assumption is made that Congress will do that. But when you look at SAWRSA and you look at section 313, you see this is not an airtight deal, and it does not guarantee water to San Xavier as a substitute water supply for all future time or even very much beyond three years.

Mr. MILLER. Thank you.

Karan.

Ms. ENGLISH. In your testimonies and your written testimony, there has been a continuing, perhaps lack of dialogue, between the CAWCD and your concerns; and all three of you have expressed that. I am hoping a corner has been turned with the Governor's report and some of the proposals that were made, especially with the Indian Settlements Office.

And this probably won't give you enough time to respond to it today, but I would like to hear from each of you regarding other recommendations that might be made so that we can start to resolve some of the negotiations or even resolve the problem of sitting at the same table to negotiate, which I think was something you were alluding to.

[EDITOR'S NOTE.—See Appendix.]

This isn't a question. I apologize, Mr. Chairman. I am making a statement here. I think that it is key to getting CAP back on the right track, and us resolving some of our problems at home. And so I would be very interested in any follow-up that you might have that I might facilitate this process moving on.

So I thank you for your comments today and look forward any additional comments you might have in helping us get over this hump.

Thank you.

Mr. WHITE. In reference to your questions on how we may better identify our relations with CAWCD, I think we used the term here in Central Arizona of the Five Tribes. Under that concept, these are Indian tribes that are, at one time, looking at contracting with the CAP water.

We have initiated the implementation of an Indian board, which is in my statement as our position. And under those terms, we could be recognized under the terms of what we feel is the best, you know, to be heard and to be recognized and to be understood under the terms of what we need to negotiate under on these CAP conditions.

And we are right now in the preliminary stages of organizing the board and having a charter and organization and memberships and all of that that goes with it.

Ms. ENGLISH. Thank you.

Mr. MILLER. Mr. Stump.

Mr. STUMP. Thank you. I have one quick question of Ms. Antone.

In your testimony, you advocate a moratorium on all allocations and exchanges and CAP pricing adjustments.

Do you think this would limit the flexibility of CAWCD to address the repayment issues?

Ms. ANTONE. I guess our comment on that is that we are just trying to preserve the status quo until we do go to the negotiation tables.

On this issue, like I said, we haven't been consulted as a Nation. I sit on the Tribal Council; and it is always important that we discuss these issues government-to-government, you know, whether it is the Federal Government, the State Government. I think that is the role that I perceive, that we do come to the negotiating tables and sit down and discuss these issues, because a lot of the discussions that were held before, it was the first time hearing about these discussions, and a lot of it has to do with Indian water settlements or Indian allocations.

Mr. STUMP. I would hope we could do these together, as you said, and work them out; but not just declaring a moratorium on all changes. I think that would slow down the whole process.

Thank you.

Mr. MILLER. Thank you very much for your testimony and your help with the hearing.

Mr. PRESTON. Mr. Chairman, I would just like to, again, invite you to come to our district and tour our lands and also to the rest of the Arizona delegation.

Thank you for having us.

Mr. MILLER. Thank you.

The next panel will be made up of Mr. Dale Pontius, who is the vice president and conservation director for American Rivers; Mr. Mark Schnepf, from Queen Creek, Arizona; and Mr. Roger S. Manning, executive director of the Arizona Municipal Water Users Association.

Again, your full statements will be placed in the record. Proceed in the manner in which you are most comfortable.

Dale, we will begin with you.

PANEL CONSISTING OF DALE PONTIUS, VICE PRESIDENT FOR CONSERVATION PROGRAMS, AMERICAN RIVERS, WASHINGTON, DC; HON. MARK SCHNEPF, MAYOR, TOWN OF QUEEN CREEK, AZ; AND ROGER S. MANNING, EXECUTIVE DIRECTOR, ARIZONA MUNICIPAL WATER USERS ASSOCIATION, PHOENIX, AZ

STATEMENT OF DALE PONTIUS

Mr. PONTIUS. Thank you, Mr. Chairman. Thank you for allowing us to be with you today. We are pleased that members of the delegation could attend this hearing and that you personally have taken the time to come to Arizona to hold the hearing and view the project personally.

I am Dale Pontius, vice president of conservation programs for American Rivers. We are a nonprofit organization dedicated to the restoration of America's rivers. From our southwestern regional office here in Phoenix we have been engaged in a number of initiatives to enhance America's streams and rivers which are worthy of protection and are very relevant to this discussion today.

I would be remiss if I didn't mention to you today what we would suggest would be one of the Federal responses to the continuing degradation of Arizona's aquatic ecosystems, and that is a proposal

that has been developed by a broad coalition in Arizona, the Arizona Rivers Coalition. We have worked closely with Congresswoman English and other members of the delegation to develop this legislative proposal which we hope will be enacted in this Congress. I would love to have you take a copy of this home with you so you can see what has been going on here as well. I will provide that to your staff.

[EDITOR'S NOTE.—See Appendix.]

As I mentioned, there is strong interest in Arizona for rivers and streams and aquatic ecosystem protection; and public opinion polls have demonstrated in the last several years that there is strong public support for this. Earlier today the Heritage Act was mentioned. It was passed by initiative by the voters in 1960 with a very strong percentage of approval. And people are constantly being made aware that our aquatic resources are also increasingly important economic resources and dollars are developed in local revenues through recreation and tourism every year, in addition to providing critical habitat for our flora and fauna, some of which are globally rare in this State.

I want to point out a couple of issues of concern to the conservation community to sort of focus on and accent the situation with the watersheds and aquatic resources of this State. I believe the factual history of the decline of our western and Arizona aquatic systems has been well documented in Federal and State reports. I want to give a couple of examples here for the committee to underline the fact that, in our opinion, Arizona still has serious environmental water management problems to deal with.

First of all, scientists estimate that as much as 90 percent of Arizona's lower elevation riparian areas where cottonwoods, willows, and mesquite forests once grew have been damaged. You heard testimony from the last panel about this occurring in the San Xavier District near Tucson. A recent Game and Fish Department study well documents the fact that there is very little of this habitat left in the State. All of the known fresh water fish species in the Gila River basin, which includes most of the State and overlaps the project area, are either extinct, federally listed as threatened or endangered, or recommended as candidates for Federal listing. To our knowledge, no other river basin in the world has this dubious distinction, at least not in this country.

The State of Arizona still does not legally acknowledge there is a hydrological connection between groundwater pumping and surface water; thus surface water rights, including in-stream flow rights based on State law, are vulnerable to continued and new groundwater pumping. The Arizona Supreme Court ruled recently that only the legislature can change this bizarre bifurcated system that does not recognize hydrologic reality. We believe this is probably unlikely to happen any time soon.

Groundwater pumping is still regulated, as was mentioned earlier, in only four active management areas in the State; and in one, Pinal County, planned depletion is the management goal. Such withdrawals continue to threaten critical rivers and streams such as the upper San Pedro River, a nationally significant biological treasure designated as a National Conservation Area by Congress, and the upper Verde River, a portion of which is Arizona's only

designated Wild and Scenic River. The San Pedro is unquestionably threatened by development in the Sierra Vista-Fort Huachuca area, where hydrology studies show a growing cone of depression drawing down the river's flow.

Finally, the Arizona Legislature has failed to enact needed legislation to protect and clarify the statutory basis for in-stream flow water rights and to protect riparian areas from further degradation, nor has it enacted a State rivers protection program, as have 33 other States.

I point these items out to you, Mr. Chairman, to point out that, in our opinion, time is running short for Arizona's remaining aquatic ecosystems and for the protection of the diversity of species so dependent on them. We in the conservation community have been urging action on riparian protection and restoration for many years.

Some of us watched your bill, H.R. 429, last Congress very closely as you successfully were able to restructure the Central Valley Project in California and the Central Utah Project to require a portion of those funds from those projects to be dedicated to fish and wildlife enhancement and watershed restoration. These provisions of the Reclamation Authorization and Adjustment Act of 1992 were an historic achievement toward changing the way Federal water projects in the West are managed.

When the Central Arizona Project was authorized in 1968, 25 years ago, as a part of the Colorado River basin, few people were thinking of these kinds of programs. However, at that time, in the act, one of the project purposes set forth was the "conservation and development of fish and wildlife resources."

Yet 25 years and over \$4 billion later, there has been little, if any, money from the Central Arizona Project devoted to carry out that express purpose. As has been indicated earlier, project funds have been used to mitigate for damages from the project facilities as it was built; and in some cases those have been substantial. But such mitigation is required and expected in any such project.

The CAP, the Nation's most expensive water project, was designed to provide an alternative water supply for the central part of the State, to halt the overdraft of groundwater basins; but at the time, no thought was given nor money directed to actually redressing the impacts of prior development of the water resources of this State on the environment. And today this still stands as an unmet obligation.

Given the fact that the project is virtually complete, it is difficult to redesign the project features to address the unmet environmental needs. It can be done in some cases. It is possible to address these needs through reallocation of some of the CAP water and by funding the watershed conservation trust fund, as has been referred to today by a number of witnesses, to carry out the fish and wildlife and watershed restoration programs that were in fact authorized by the law.

As the debate has developed in recent months over how to restructure the project financially and assist in the agricultural problems, American Rivers and other conservation groups have begun to analyze ways that the project could be restructured so that water could be marketed not only to repay the Federal debt on the

project but also to provide a source of funds for the long neglected environmental needs and a source of water as well.

I am going to try to summarize the rest of my statement. Rob Smith did include a lot of these comments about the debate in the Governor's Advisory Committee.

Let me just say we did support, in the committee and as was recommended, principles for providing for allocation of CAP water for the conservation and development of fish and wildlife resources. We had recommended 150,000 acre-feet approximately of CAP water to be set aside, a large part of that to be used on the main stem of the Colorado River, and some to be used in central Arizona. We think working with the Bureau and the District and the State water department, we could develop, within a reasonable time, projects where this water could be used.

For example, the San Pedro River is an obvious candidate. There is water needed to replace the water supply by that area, if we are going to do something about the fact that that river is absolutely jeopardized by continued growth in that area.

We also suggested that the trust fund be created to finance other measures, a number of measures which we recommended as examples in our report. Without elaborating on those I will, with your permission, Mr. Chairman, include in our written statement a copy of the report which elaborates some of these examples of how this money could be used.

[EDITOR'S NOTE.—See Appendix.]

We also suggested a number of possible funding sources in that report which include surcharges on interstate and intrastate leases, forbearance agreements, water recharge agreements involving the CAP entitlement, pump tax, surcharges on excess power sales, surcharges on intrastate transfers of CAP contracts like the recently discussed Payson transfer.

There are many sources we believe where the District and State can look to for revenue sources to create and have available a reasonable level of funds for this purpose. That would, I think, include participation by the Federal Government, participation by the Bureau of Reclamation, by its appropriation process, given the fact that this is a valid program purpose under the Project Act.

As you know, we do believe a permanent trust fund is necessary as a component of any overall resolution of this issue. And we are hopeful that this can be done within the dialogue that has been discussed here today. But we would certainly like to hold out the possibility that that must be done at the Federal level if the State does not act in a manner that is acceptable to the public interest.

Thank you.

Mr. MILLER. Thank you.

[Prepared statement of Mr. Pontius follows:]



TESTIMONY OF DALE PONTIUS
VICE PRESIDENT FOR CONSERVATION PROGRAMS
AMERICAN RIVERS, INC.

OVERSIGHT HEARINGS ON THE
CENTRAL ARIZONA PROJECT

BEFORE THE SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

HOUSE COMMITTEE ON NATURAL RESOURCES

Phoenix, Arizona

December 10, 1993

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a member of Earth ShareSM

Thank you, Mr. Chairman, for the opportunity to appear here today and provide American Rivers' views on the Central Arizona Project (CAP). We are extremely pleased that you took the time to come to Arizona and to hold this hearing on the status of the CAP.

I am Dale Pontius, the Vice President for Conservation Programs for American Rivers. As you know, American Rivers is a national nonprofit conservation organization dedicated to the preservation and restoration of America's rivers. From our Southwestern regional office located here in Phoenix, we have been engaged in a number of initiatives to protect and enhance Arizona's remaining streams and rivers - and there are many still very worthy of protection - and the restoration of at least some of the State's aquatic and riparian heritage.

To this end, we have worked with a statewide "rivers coalition" of citizens and groups to develop a proposal that has been forwarded to the Arizona Congressional delegation recommending the designation of some 40 rivers and streams in Arizona as Wild and Scenic Rivers by the Congress. We have worked closely with Congresswoman Karan English, as well as other members of the delegation, to move this proposal to the legislative arena, and we remain confident that a comprehensive Arizona Wild and Scenic Rivers Act can be passed in this Congress.

Indeed, public opinion polls demonstrate there is strong public support for efforts to protect the State's remaining free-flowing rivers and streams. These areas are an increasingly important economic resource to the State as well, developing millions of dollars in local revenues through increased recreation and tourism, in addition to providing critical habitat for a rich diversity of flora and fauna - some of which are globally rare.

Most of the watersheds and aquifers of this State have been systematically developed and over-appropriated over the past 100 years to support the State's economic growth. Arizona developed an economy based on irrigated agriculture, mining and grazing; the three C's - cotton, cattle, and copper - dominated the economy and politics in Arizona for decades. More recently, water has been needed to support rapidly growing urban areas, golf courses, and new industry.

Indeed, the State's principal surface water resource, the Salt-Gila system, was developed as one of the earliest projects authorized under the Reclamation Act of 1902. The Salt River Project resulted in a string of dams, impoundments and diversion canals that I am sure you observed during your inspection tour in the State this week, along with those flooded lawns in urban areas of the valley that were once farms. The now dry Salt and Gila River beds are lasting monuments to the growth of Central Arizona - and reminders of what such development has meant for

similar natural river systems throughout the west in the last century.

The factual history of the decline of Arizona's natural aquatic and riparian systems is well documented in a variety of state, federal and other published reports. A few facts should suffice to illustrate this, as well as to demonstrate that Arizona still has serious environmental and water management problems.

- Scientists estimate that as much as 90% of Arizona's lower elevation riparian areas where cottonwoods, willows, and mesquite forests once grew have been damaged or destroyed due to development or dewatering.

- All of the known native freshwater fish species in the Gila River basin, which includes most of the State and overlaps the project area, are either extinct, federally listed as threatened or endangered, or recommended as candidates for federal listing. To our knowledge, no other river basin in the world has this dubious distinction.

- The State still does not legally acknowledge there is a hydrological connection between ground water pumping and surface water; thus surface water rights, including instream flow rights based on State law, are vulnerable to continued and new groundwater pumping. The Arizona Supreme Court ruled recently

that only the Legislature can change this bizarre bifurcated system that does not recognize hydrologic reality. This is unlikely to happen anytime soon.

- Groundwater pumping is still regulated in only the four active management areas in the State (and in one, Pinal County, planned depletion is the management goal). Such withdrawals continue to threaten critical rivers and streams such as the upper San Pedro River, a nationally significant biological treasure designated as a National Conservation Area by Congress, and the upper Verde River, a portion of which is Arizona's only designated Wild and Scenic River. The San Pedro is unquestionably threatened by development in the Sierra Vista - Fort Huachuca area, where hydrology studies show a growing cone of depression drawing down the river's flow.

- The Arizona Legislature has failed to enact needed legislation to protect and clarify the statutory basis for instream flow water rights and protect riparian areas from further degradation, nor has it enacted a state rivers protection law, as have 33 other states.

Mr. Chairman, time is growing short for Arizona's remaining aquatic ecosystems and the diversity of species so dependent on them. It is past time that the political leaders in this State

acknowledge that the protection of our remaining streams and rivers is indeed an important public policy and give it priority.

As you know, in 1980 the Arizona Groundwater Management Act (GWMA) was enacted to bring groundwater pumping under control and to reduce the overdraft of that resource as a condition of continued federal funding to complete the CAP.

Despite the hoopla surrounding this monumental legislative achievement (due in large part to the leadership of our then-Governor Bruce Babbitt), the Act studiously avoided dealing with any impacts of groundwater pumping on the surface waters of the State. It left that issue for another day - which is yet to arrive. It also did not deal with water management or water conservation for other areas of the State outside the four legislatively created active management areas, which is where most of the remaining surface water is located. And there is no question - especially among hydrologists - that the continued pumping of groundwater threatens to dry up or seriously dewater some of these rivers and streams if nothing is done.

The conservation community in this State has been urging action on riparian protection and restoration proposals for years. Many of us watched closely as Congress voted last year to restructure the Central Valley Project and the Central Utah Project and require that a portion of project water and funds be dedicated

for fish and wildlife purposes and watershed restoration. These provisions of the Reclamation Projects Authorization and Adjustment Act of 1992 were significant steps toward changing the way federal water projects in the west are to be managed in the future.

However, it is now 13 years since the GWMA was adopted and the CAP is all but completed; and Arizona still does not have its water management house in order.

Restructuring the CAP

The CAP was authorized by Congress 25 years ago by the Colorado River Basin Project Act. One of the project purposes set forth in that law was the "conservation and development of fish and wildlife purposes." Yet 25 years and \$4 billion later, not a dime has been spent to carry out that express purpose. Project funds have been spent to mitigate the impacts of this vast project on wildlife habitat and the environment, but such mitigation is required by law to offset any future damage to such resources.

While the nation's most expensive federal water project was designed to slow or halt the overdraft of groundwater basins in central Arizona, no thought was given and no money directed to alleviating and redressing the impacts of past development on the

State's depleted water resources, most notably the rivers and streams of central Arizona, the Santa Cruz, Gila, and Salt Rivers. Today, this still stands as an unmet obligation.

Obviously, given the fact that the project is virtually complete, it is difficult to redesign project features to address the unmet environmental needs. But it is possible to address these needs through some creative reallocations of CAP water for these purposes and by funding a Watershed Conservation Trust Fund to carry out other restoration and wildlife conservation programs.

As it became more and more obvious that the CAP was in serious financial trouble because of low demand - especially among agriculture interests - for the CAP water, American Rivers and other conservation organizations and concerned citizens began to analyze ways that the project could be restructured and the water marketed not only to repay the federal debt on the project, but also to provide some of the surplus water and a source of funding to meet long-neglected environmental needs in the State's watersheds and to promote water conservation.

When Governor Symington appointed the CAP Advisory Committee last January, we were chagrined to learn that there were no representatives of the conservation community on the Committee and that environmental concerns did not appear to be part of the agenda. Later, at our request, four conservation group

representatives were added to the 33-member committee, and an environmental subcommittee was appointed to deal with these concerns. I do want to take this opportunity to thank the CAP Advisory Committee Chair, Mark DeMichele, and the Environmental Subcommittee Chairman, Jack Pfister, for their support of these concepts and their patience and efforts to see that these issues were considered by the Committee.

A report with recommendations that was endorsed by a number of conservation groups, including American Rivers, the Arizona Chapter of The Nature Conservancy, the Sierra Club, was submitted to the Environmental Subcommittee. The principal recommendations submitted by the conservation community can be summarized as follows:

CAP water should be reallocated for the conservation and development of fish and wildlife resources

We recommended that approximately 150,000 acre-feet (AF) of CAP water be set aside to meet fish and wildlife needs on the mainstem of the Colorado River plus an additional 25,000 AF reserved for such needs in central Arizona. The report suggested a number of ways this water could be put to beneficial use, such as to maintain the viability of the Cienega de Santa Clara in the Colorado River delta and to enhance endangered fish and wildlife habitat in various wildlife refuges along the Colorado River.

We believe that utilizing much of this water on the mainstem Colorado for federal purposes will also have a very positive impact as to repayment and could reduce the CAWCD's repayment obligation significantly. In turn, some of the costs to the federal government conceivably could be offset by savings from mothballing that white elephant known as the Yuma Desalting Plant. This could be a major "win-win" for the CAWCD and the federal taxpayers.

We also suggested that CAP water should be put to beneficial use, either directly or through exchanges, in the central part of the State to protect, enhance or restore stream segments and riparian habitat. For example, a CAP allocation to the City of Sierra Vista could be used, through an exchange or transfer, to enable the city to develop an alternative water supply or recharge project to protect the San Pedro River from groundwater pumping.

The Governor's Advisory Committee did recommend that three levels of CAP water for environmental purposes be evaluated: 50,000, 100,000, and 150,000 AF, and acknowledged in its report that such uses could reduce the District's repayment obligation. The CAWCD, however, does not support any CAP water being used for projects on the mainstem Colorado.

Establish a Watershed Conservation Trust Fund

A Watershed Conservation Trust Fund is needed to finance measures to conserve, protect and restore Arizona's aquatic and riparian resources, including paying any costs associated with the use of transporting CAP water for such purposes. We recommended an annual funding level of \$15 million and suggested examples of potential projects that could use such funds. We also suggested possible funding sources, including: surcharges on interstate or interbasin leases or forbearance agreements and water recharge agreements involving Arizona's CAP entitlement; pump taxes; surcharges on excess power sales; and surcharges on intrastate transfers of CAP contracts. There are many other sources the District and/or the State can look to for revenue sources for this fund, including participation by the Bureau of Reclamation through annual appropriations for the CAP.

The Governor's Committee made significant changes to the recommendations proposed by the conservation representatives of the Environmental Subcommittee, not the least of which is capping the fund at \$8 million a year and limiting it to \$500,000 at its inception. Indeed, initially the Committee voted against any such fund, rejecting the Environmental Subcommittee recommendation to evaluate three levels of funding - \$5, 10 and 15 million. Upon reconsideration, the Committee approved an

initial fund of \$500,000 with a cap of \$8 million and added several restrictions.

We continue to believe that \$15 million a year is the level of funding that is ultimately necessary if we are to make a significant difference in enhancing our watersheds and that \$8 million a year should be funded within five years. While it may be necessary to gradually build to that level, there does need to be sufficient funds available to carry out studies and planning in the first few years. The CAWCD is yet to endorse any type of trust fund for watershed conservation and enhancement.

American Rivers believes that funding the protection and restoration of Arizona's rivers and streams is at least as important as subsidizing irrigation water users so the State can gain more "interest-free" water. American Rivers believes that establishing a permanent Watershed Conservation Trust Fund is an absolutely essential component of any overall resolution of the CAP issues.

And, Mr. Chairman, we think the Congress should not hesitate to establish such a fund (as was done in Utah and in California last year when your bill, H.R. 429, was enacted), if the State of Arizona fails to establish an adequate fund.

One of the more critical issues is what kind of board or committee will decide how the conservation fund is spent. Under Title III of H.R. 429, a state level board, called the "Reclamation, Mitigation and Conservation Commission," was created to administer a similar fund in Utah. The members are appointed by the President from lists submitted by the State, but must include people with specific expertise in fish, wildlife and environmental conservation matters. We do not oppose a state oriented entity to administer the fund, such as in Utah but we think the key is that the entity created to administer this fund needs to have this expertise and not be set up to try to achieve balance between different water users groups. To comply with the federal interest that the watershed problems in Arizona be addressed as part of any comprehensive solution, this entity must be weighted heavily in favor of this professional (and non-adversarial) conservation expertise.

We have no objection to creating a State rather than a federal fund and entity (such as the Fish & Wildlife Foundation) to administer the fund as long as that entity has a clear mandate to use the fund for the enhancement of Arizona's watersheds and has sufficient scientific and natural resources expertise. I wish I could tell you today that I am optimistic that all this can be accomplished soon through state legislation. Realistically, however, unless the CAWCD, the Governor's CAP Advisory Committee, and the Governor fully support this effort and work with us to

make it happen, it faces tough sledding in the Arizona Legislature.

We believe all users, including municipal, industrial and agricultural users, should pay some portion of the cost of the Watershed Conservation Fund. By way of example, in California, CVP agricultural users are assessed a minimum of \$6.00 an acre-foot for restoration surcharges, and M & I users pay at least \$12.00 an acre-foot. If you were to add a surcharge to M & I use in Arizona of only \$5.00 an acre-foot, it would add less than \$.50 a month to the average homeowner's water bill. However, it also seems likely that a significant percentage of this cost could be paid by power consumers and water users elsewhere if market forces are allowed to work.

We regret the Governor's Advisory Committee chose not to endorse the opportunities that exist for marketing some of Arizona's unused CAP water to other thirsty cities in the lower basin to alleviate pressures for new water development from other sources, such as the Virgin River. Moreover, surcharges on such transactions could provide a substantial source of revenue for the fund.

There is an additional issue that this Committee needs to be aware of and which we hope the State and the Bureau will add to their list of unresolved issues. Currently, there are no

guidelines or opportunity for public review of any proposed transfers of CAP sub-contracts such as the proposed transfer of the Payson allocation to the City of Scottsdale. There are significant environmental impacts associated with these agreements, especially when the transferor (such as the Town of Payson) will receive money instead of water to develop an alternative water supply. We are concerned about how and what supply is to be acquired, whether there will be NEPA compliance, and whether we and other citizens will have the opportunity to comment before the deal is done. Also, we think it important that such transactions be subject to a surcharge for the Watershed Conservation Fund, as the Bureau proposed with the Payson transaction, although we are not prepared to say that 7.5% is the right percentage in each case. In short, we think the Bureau and the State should develop and publish for comment guidelines for such transfers that will protect the environment and the public interest before any such transfers are approved.

American Rivers is concerned that the CAP meet its contractual obligations to repay the federal investment in this project without unduly burdening Arizona water rate payers. However, we do not believe that the natural environment of the State need be sacrificed any longer to accomplish this if the State's leaders acknowledge this responsibility and act responsibly.

We were pleased to see that the Commissioner of the Bureau of Reclamation, in his letter of December 3 to the President of the CAWCD, stated that if a restructuring plan for the CAP is to be found acceptable by the Bureau, it must be a comprehensive plan that deals with a number of outstanding issues, including "mechanisms for enhancing or restoring environmental quality and fish and wildlife habitat in Arizona." We hope and fully expect to be included in any discussions between the Bureau, the CAWCD and the State regarding these issues and such a comprehensive package of solutions.

As Chairman of the House Committee that oversees this project, you have already made it clear on previous occasions that current budgetary and political realities dictate that Arizona deal with its environmental and Indian water rights settlement issues as a part of any new or continued assistance from the federal government, as has occurred in projects in other western states. We urge you to continue to be engaged in these discussions and to exercise your oversight and legislative responsibilities as necessary to assure these goals are met. Thank you again for the opportunity to appear here today.

Mr. MILLER. Mr. Schnepf.

STATEMENT OF HON. MARK SCHNEPF

Mr. SCHNEPF. Thank you. I appreciate your being here today. I have had the opportunity to work with Congresswoman English. She is my Representative, and we have several issues in our district that we are working on.

I appreciate the opportunity to be here today and to speak on this particular issue. My father and I own a 700-acre farm in Queen Creek, which is a community of 5,000 people approximately 40 miles southeast of Phoenix. We grow potatoes, mixed vegetables, grapes, grain, and nursery trees. I don't mention those to brag but simply to show that Arizona agriculture is quite diversified. My family has been Arizona farmers for 150 years. We employ about 30 people full time and 50 people during the harvest season.

I am the mayor of the town of Queen Creek and have served in that position for four years. Queen Creek is a rural community served by both the New Magma and Queen Creek Districts. Nearly all of our local businesses rely very heavily on the agriculture economy. There are two school districts with over 1,200 children that are supported by property taxes levied on agriculture land. It is critical to communities like mine that a solution to our water financing crisis be found, and I believe that that has been done.

The Central Arizona Project and its water is critical to my community. Our domestic water is provided by groundwater delivered by individually-owned wells or by private water companies. Substituting Central Arizona Project water for groundwater, agriculture has been able to conserve groundwater. This is in keeping with both the State's Groundwater Management Act and the Federal legislation authorizing the CAP.

Last year, New Magma and Queen Creek used a total of 89,500 acre-feet of CAP water, directly substituting that for an equal amount of groundwater. By substituting CAP water for groundwater, we have been conserving our nonrenewable resource. We know that this conservation program is, indeed, working because we are seeing a gradual rise in our groundwater levels in our particular area.

As a farmer, I strongly support the Central Arizona Water Conservation District's target pricing policy adopted in October of this year. This policy is a State solution to the problems that we have and is a first step in solving our overall problem. We have underutilization of CAP water.

Implementation of the CAWCD's policy will begin to reduce this under-utilization as well as provide money to help cushion rate shock to domestic water users in the State. By following the plan, we will be able to continue to conserve our groundwater. If we didn't have such a plan, I know that my farm and my neighbors who farm would have to refuse to accept CAP water and return to the pumping of groundwater.

As an elected official in this rapidly growing State, I am concerned about the future availability of water for the residents of my town. Because of that, I believe Arizona should take all steps necessary to protect its entitlements to Colorado River water. I agree with the recommendations of the Governor's Advisory Committee

that Arizona should keep, protect, and utilize its share of the Colorado River water here in Arizona. I believe that the plan of CAWCD provides for an orderly transition of the water from agriculture to domestic use. Much of that will be used by my town and by the neighboring communities in my area.

I believe that the CAWCD's pricing policy will enable agriculture to remain viable, thus contributing to State, county, and local area economies. If agriculture is not part of the mix, then the remaining water users will have to make up the loss. Municipal ratepayers in Arizona will then pay much more if agriculture is not part of the solution.

If agriculture isn't part of the CAP, we are in new territory. Agriculture is going to be forced to go back to pumping groundwater until it would simply not be economical.

The main point that I would like to make here today is the impact that CAP has on rural communities. I hope that when people speak of agriculture—and I hope the committee understands that when you speak of agriculture—you are not speaking only of farmers in the area, but you are also speaking of school districts, of town governments, of local businesses, and dozens if not hundreds or thousands of local jobs—these are very important to our community. The ripple effect is extremely strong.

I don't believe that Arizona should jeopardize its rights to hundreds of thousand acre-feet of water. We as Arizonans have taken steps to solve these problems. I think by making water affordable to agriculture, we achieve four objectives.

First, we benefit municipal ratepayers; second, we preserve our water allocations for future municipal use—which is important for every community including the town of Queen Creek; third, we protect our groundwater, the main objectivity of the Groundwater Management Act; and fourth, we help preserve and sustain businesses, school districts, town governments, and tens of thousands of people, all of which are in our rural communities.

I support the CAWCD's efforts in this and look forward to further progress and sincerely appreciate the opportunity to be here today and express my views.

Thank you, Mr. Chairman.

Mr. MILLER. Thank you.

[Prepared statement of Mr. Schnepf follows:]

**CENTRAL ARIZONA PROJECT OVERSIGHT HEARINGS
DECEMBER 10, 1993
COMMITTEE ON NATURAL RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES**

**STATEMENT BY MARK SCHNEPF
MAYOR
TOWN OF QUEEN CREEK, ARIZONA**

Mr. Chairman, Congresswoman English, other members of the Committee and distinguished guests, I am Mark Schnepf from Queen Creek, Arizona. I appreciate the opportunity to testify here today.

My father and I own a 700 acre family farm in Queen Creek, a community of 5,000 people 40 miles southeast of Phoenix. We grow potatoes, mixed vegetables, tree fruit, grapes, grain and nursery trees. My family have been Arizona farmers for over 100 years, 50 of those in Queen Creek. We employ 30 people full time and about 50 people during the harvest season.

Besides managing the farm I am the mayor of Queen Creek and have served in that position for four years. Queen Creek is a rural community that is served by both the New Magma and Queen Creek Irrigation Districts. Agriculture is the primary industry in Queen Creek and nearly all of our local businesses rely heavily on the agriculture economy. There are 2 school districts with over 1200 children that are supported by property taxes levied on agriculture land. It is critical to communities like mine that a solution to our water financing crisis be found and I believe that that has been done.

The Central Arizona Project and its water is critical to my community. Our domestic water is provided by groundwater delivered by individually owned wells or by private water companies. Substituting Central Arizona Project water for groundwater, agriculture has been able to conserve groundwater. This is in keeping with both the State's Groundwater Management Act and the Federal legislation authorizing the CAP.

Last year New Magma and Queen Creek used a total of 89,500 acre feet of CAP water, directly substituting that for an equal amount of groundwater. This has been true even despite our record wet winter.

By substituting CAP water for groundwater we have been conserving our non-renewable resource and have also conserved our use of electricity. We know this conservation program is successful because there has been a rise in the local groundwater table over the last several years.

As a farmer, I strongly support the Central Arizona Water Conservation District's target pricing policy adopted by it on October 7, 1993. This policy is a state solution to a state problem, namely under-utilization of CAP water. Implementation of this policy will begin to reduce the under utilization as well as provide money to cushion rate shock to the domestic water users in the State. By following the plan we will continue to conserve our groundwater. If we did not have such a program my farm and my

neighbors would have to refuse to accept CAP water and return to the pumping of groundwater.

As an elected official in this rapidly growing State, I am concerned about the future availability of water for the residents of my town. Because of that, I believe that Arizona should take all steps necessary to protect its entitlement to Colorado River water. Since 1922 the State has fought and fought to protect its rights to that valuable resource. It is not time to stop. I agree with the recommendations of the Governor's Advisory Committee that Arizona should keep, protect and utilize its share of the Colorado River here in Arizona. And I believe that the plan of CAWCD provides for an orderly transition of the water from agriculture to domestic use by residents of my town and other neighboring communities.

I am informed that CAWCD has already made its first payment called for under its contract with the United States for repayment of the CAP. In fact, I understand that this was an overpayment and there is a credit on the next payment. From what CAWCD has published, I do not believe that the United States is at financial risk for payments due under that contract. I believe that CAWCD's policy will remove any uncertainty of CAWCD making its payments and will enable it to continue to make its payments on time for the full amount called for under the repayment contract.

I further believe that CAWCD's pricing policy will enable agriculture to remain viable thus contributing to the State, County and local area economies. If agriculture is not part of the mix, then the remaining water users will have to make up the loss. Municipal ratepayers in Arizona will then pay much more if agriculture is not included.

If agriculture is not part of the CAP, we are in new territory. Agriculture would go back to pumping the groundwater until it would not be economical. Then the farms would revert to desert and this would be an environmental disaster as well as an economic disaster. The rural communities' ability to bond for infrastructures and on school districts' ability to issue new debt, would be adversely impacted. If the viability of the irrigation districts are endangered, it will effect not only farmers but entire communities. My town would be severely impacted. Businesses would shut down, unemployment would increase, tax delinquencies would increase making it harder for the town and the schools to provide necessary services. The ripple effect is strong.

I don't believe Arizona should jeopardize its rights to hundreds of thousands of acre feet of water. We, as Arizonans, have taken steps to solve our problems and we do not believe the strong arm of Federal intervention is needed.

By making water affordable we accomplish at least four objectives:

1. Benefits municipal ratepayers.
2. Preserve our water allocations for future municipal use -- which is important for every community including the town of Queen Creek.
3. To protect our groundwater -- the main objective of the Groundwater Management Act.
4. Help preserve and sustain businesses, school districts, town governments and tens of thousands of people, all of which are in our rural communities.

I strongly support CAWCD's efforts to solve Arizona's problems in Arizona. The program approved and adopted by CAWCD in October will benefit all Arizonans and because of that it should be supported by all Arizonans.

Thank you for giving me this opportunity to submit my position, Mr. Chairman.

WDB:smh

Mr. MILLER. Mr. Manning.

STATEMENT OF ROGER S. MANNING

Mr. MANNING. Mr. Chairman, members of the Arizona delegation, thank you all for being here.

I see I started with the red light. Is that symbolic or what?

My name is Roger Manning. I am the executive director of the Arizona Municipal Water Users Association, AMWUA. AMWUA is a voluntary, nonprofit corporation supported by the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe, and the town of Gilbert.

Together, the population of those municipalities numbers approximately 2 million individuals in the metropolitan Phoenix area. AMWUA members have contracted for nearly 98 percent of all CAP water that is available in Maricopa County and nearly one-third of the State's total CAP M&I allocation.

AMWUA represents and assists its members in areas of water resource management that require a coordinated municipal effort. Some of these areas include the acquisition of Cliff Dam replacement water, State water legislation, water conservation, and a variety of environmental matters.

AMWUA also participated in the development and implementation of the CAP/Plan 6 cost-sharing agreement, which you will recall this agreement provided for a little over \$350 million in local contributions from Arizona entities to assist in the completion of this important project.

AMWUA has also been actively involved in the very important efforts of the Governor's CAP Advisory Committee and the CAWCD's efforts to restructure the financial obligations of CAP subcontractors and to protect Arizona's entitlement to waters of the Colorado River.

On behalf of my board of directors, the mayors of our member municipalities, I wanted to take this opportunity to express our appreciation to the subcommittee for its interest in the CAP and for offering us the opportunity to testify on the CAP, a project of immeasurable importance to the State of Arizona.

As you are aware, CAP water is essential to Arizona's economic health, now and in the future. There is no long-term CAP surplus; all of it will eventually be used. No other water source exists that will enable us to meet the goals and objectives of Arizona's Groundwater Management Act, recognized nationwide as a prime example of innovative water management.

Members of the subcommittee, it is important to recognize that AMWUA fully supports the Central Arizona Water Conservation District's decision to proceed with implementation of its CAP financial restructuring program or plan. We have participated in the development of this plan, the genesis of which began over three years ago when it became apparent that CAP irrigation districts might not be in a position to fulfill their financial obligations under their CAP subcontracts and, as a result, the financial obligations of CAWCD's other subcontractors, the M&I users, would necessarily and unavoidably increase.

We support the CAWCD's plan on the basis of the following:

One: We believe that it should put to rest the concerns held by some that the CAP, or the CAWCD itself, is at risk of financial failure. It should be noted that AMWUA has always believed that this concern is both misplaced and insignificant. Even without the CAWCD's financial restructuring plan, Arizona's obligation to repay the Federal Government for the reimbursable costs of the CAP would have been met. Those obligations are specified in statute and in the CAP Master Repayment Contract.

CAWCD's financial restructuring plan is not an attempt to change the law or renegotiate the terms of the Master Repayment Contract. It is a response to the probability that CAP irrigation districts would be unable to fulfill their financial obligations under their CAP subcontracts. If so, not only would the cost of CAP M&I water rise but the level of CAP use would plummet to the detriment of Arizona's water management efforts.

Two: The costs associated with maintaining Arizona's Colorado River and CAP entitlements remain an Arizona obligation guaranteed by Arizona interests. CAWCD's financial restructuring plan is an Arizona solution. With all due respect, we see no necessity for any congressional action. We are confident that Arizona's CAP financial responsibilities will be met promptly and fully.

Three: Benefits—and not just financial—are received for lowering the cost for irrigation districts of up to 400,000 acre-feet of CAP water to a cost near that of pumping groundwater.

A. Agricultural CAP water use replaces agricultural groundwater use. The groundwater will then be available during times of shortage or for future non-agricultural uses. Such an outcome is consistent with Arizona's Groundwater Management Act. Indeed, it has been argued that such is not only consistent with the Act, it is a necessary condition to the achievement of its goals and objectives.

B. In order to be eligible for the lower water rates and be relieved of existing financial obligations, CAP irrigation districts would have to waive many benefits identified in their CAP subcontracts, primarily those which would have given them a long-term lock on the water. In other words, the existing 50-year subcontracts for the delivery of irrigation water essentially evaporates with the water transferable, now and in the future, for other uses—M&I, Indian, and environmental.

C. The participation of non-Indian agricultural use saves us, the M&I user, money. The M&I ratepayers and taxpayers are, through the CAWCD, ultimately responsible for the CAP repayment obligation. To the extent there is a non-Indian agricultural component associated with the CAP, its costs will be repaid without interest thereby reducing the amount of money the CAWCD must expend to meet its financial obligations. This circumstance results in the somewhat anomalous situation that if CAP agricultural water is subsidized, M&I water will cost less than it would have if CAP water was not subsidized. This outcome, however, is an artifact of Federal Reclamation law, not the CAWCD's financial restructuring plan.

D. The important efforts of the Governor's CAP Advisory Committee, the CAWCD's financial restructuring plan, and its recent board policies speak directly to the issue of the environment. AMWUA strongly supports an allocation of CAP water for environ-

mental purposes in the State. AMWUA has also forcefully and consistently supported the establishment of an environmental trust fund. We, however, must stress that our support is for an "Arizona" environmental trust fund, one in which the residents of the State and their elected leaders determine the fund's purposes, funding sources, and expenditures.

Finally, however, it is necessary to identify a critical omission in the CAWCD's financial restructuring plan, an exclusion the CAWCD fully recognizes but one about which it could do little. This omission, we believe, will not affect CAWCD's repayment capability; but it may impact upon the price the CAWCD will charge its subcontractors. The CAWCD simply does not know how much water the United States wishes to reserve for its purposes and whether the U.S. is willing to meet its contractual and legal obligations to pay for the water it reserves. We are confident that this question will be answered without further delay.

Again, let me express AMWUA's appreciation for the interest shown by the subcommittee and for the opportunity to testify. In the future, if you or any of your staff have any questions, please do not hesitate in contacting the AMWUA office.

Thank you.

[Prepared statement of Mr. Manning follows:]

TESTIMONY
OF
ROGER S. MANNING, EXECUTIVE DIRECTOR
ARIZONA MUNICIPAL WATER USERS ASSOCIATION

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
CONCERNING THE CENTRAL ARIZONA PROJECT

PHOENIX, ARIZONA
DECEMBER 10, 1993

My name is Roger S. Manning. I am Executive Director of the Arizona Municipal Water Users Association (AMWUA). AMWUA is a voluntary, non-profit corporation supported by the Cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe and the Town of Gilbert. Together, the population of these municipalities numbers approximately 2,000,000 individuals. AMWUA members have contracted for nearly 98% of all Central Arizona Project (CAP) water allocated to cities and towns in Maricopa County or about one-third (218,307 acre-feet) of the state's total CAP M&I allocation.

AMWUA represents and assists its members in areas of water resource management that require a coordinated municipal effort. Some of these areas include the acquisition of Cliff Dam replacement water, state water legislation, water conservation and environmental matters. AMWUA also participated in the development and implementation of the CAP/Plan 6 Cost Sharing Agreement. As you may recall, this agreement provided over \$350 million in contributions from Arizona entities to assist in the completion of the CAP. AMWUA has also been actively involved in the very important efforts of the Governor's CAP Advisory Committee and the CAWCD to restructure the financial obligations of CAP subcontractors and to protect Arizona's entitlement to waters of the Colorado River.

On behalf of my Board of Directors, the Mayors of our member municipalities, I want to take this opportunity to express our appreciation to the subcommittee for its interest in the CAP and for offering us the opportunity to testify on the CAP, a project of immeasurable importance to the State of Arizona. As you are aware, CAP water is essential to Arizona's economic health, now and in the future. There is no long-term CAP surplus; all of it will eventually be used. No other water source exists that will enable us to meet the goals and objectives of Arizona's Groundwater Management Act, recognized nation-wide as a prime example of innovative water management.

Members of the subcommittee, it is important to recognize that AMWUA fully supports the Central Arizona Water Conservation District's (CAWCD) decision to proceed with implementation of its CAP financial restructuring program or plan. We have participated in the development of this plan, the genesis of which began over three years ago when it became apparent that CAP irrigation districts might not be in a position to fulfill their financial obligations under their CAP subcontracts and, as a result, the financial obligations of CAWCD's other subcontractors, the M&I users, would necessarily and unavoidably increase.

We support the CAWCD's plan on the basis of the following:

1. We believe that it should put to rest the concerns held by some that the CAP, or the CAWCD itself, is at risk of financial failure. It should be noted that AMWUA has always believed that this concern is both misplaced and insignificant. Even without the CAWCD's financial restructuring plan, Arizona's obligation to repay the federal government for the reimbursable costs of the CAP would have been met. Those obligations are specified in statute and in the CAP Master Repayment Contract. CAWCD's financial restructuring plan is not an attempt to change the law or renegotiate the terms of the Master Repayment Contract. It is a response to the probability that CAP irrigation districts would be unable to fulfill their financial obligations under their CAP subcontracts. If so, not only would the cost of CAP M&I water rise, but the level of CAP use would plummet to the detriment of Arizona's water management efforts.

2. The costs associated with maintaining Arizona's Colorado River and CAP entitlements remain an Arizona obligation guaranteed by Arizona interests. CAWCD's financial restructuring plan is an Arizona solution. With all due respect, we see no necessity for any congressional action. We are confident that Arizona's CAP financial responsibilities will be met promptly and fully.
3. Benefits, and not just financial, are received for lowering the cost for irrigation districts of up to 400,000 acre-feet of CAP water to a cost near that of pumping groundwater.
 - a. Agricultural CAP water use replaces agricultural groundwater use. The groundwater will then be available during times of shortage or for future non-agricultural uses. Such an outcome is consistent with Arizona's Groundwater Management Act. Indeed, it has been argued that such is not only consistent with the Act, it is a necessary condition to the achievement of its goals and objectives.
 - b. In order to be eligible for the lower water rates and be relieved of existing financial obligations, CAP irrigation districts would have to waive many benefits identified in their CAP subcontracts, primarily those which would have given them a long-term lock on the water. In other words, the existing 50 year subcontracts for the delivery of irrigation water essentially evaporate with the water transferable, now and in the future, for other uses---M&I, Indian and environmental.
 - c. The participation of non-Indian agricultural use saves us, the M&I user, money. The M&I ratepayers and taxpayers are, through the CAWCD, ultimately responsible for the CAP repayment obligation. To the extent there is a non-Indian agricultural component associated with the CAP, its costs will be repaid without interest thereby reducing the amount of money the CAWCD must expend to meet its financial obligations. This circumstance results in the somewhat anomalous situation that if CAP agricultural water is subsidized, M&I water will cost less than it would have if CAP water was not subsidized. This outcome, however, is an artifact of federal reclamation law, not the CAWCD's financial restructuring plan.
 - d. The important efforts of the Governor's CAP Advisory Committee, the CAWCD's financial restructuring plan and its recent board policies speak directly to the issue of the environment. AMWUA strongly supports an allocation of CAP water for environmental purposes in the state. AMWUA has also forcefully and consistently supported the establishment of an environmental trust fund. We, however, must stress that our support is for an "Arizona" environmental trust fund--one in which the residents of the state and their elected leaders determine the fund's purposes, funding sources and expenditures.

Finally, however, it is necessary to identify a critical omission in the CAWCD's financial restructuring plan, an exclusion the CAWCD fully recognizes, but one about which it could do little. This omission, we believe, will not affect CAWCD's repayment capability, but it may impact upon the price the CAWCD will charge its subcontractors. The CAWCD simply does not know how much water the United States wishes to reserve for its purposes

and whether the U.S. is willing to meet its contractual and legal obligations to pay for the water it reserves. We are confident that this question will be answered without further delay.

Again, let me express AMWUA's appreciation for the interest shown by the subcommittee and for the opportunity to testify. In the future, if you or any of your staff have any questions, please do not hesitate in contacting the AMWUA office. Thank you.

Mr. MILLER. Thank you.

Let me ask you, Mr. Schnepf or Mr. Manning, if CAWCD is going to provide a bridge loan to agriculture with the target pricing so that they can continue for some foreseeable future—I don't know what period of time that would be. With that mechanism, that apparently is what is necessary to allow these districts to continue, why would they do the same with respect to their distribution obligations? Why should the Federal Government stand in line for money the districts are defaulting on?

Mr. SCHNEPF. Mr. Chairman, if I may, it is certainly the District's intention to fully repay all of its obligations to the Federal Government. I know that at least one of the districts in my area is experiencing some difficulty and has had ongoing negotiations with the Bureau to see if there isn't some agreeable solution, not to default on those loans but simply to restructure them so that the loans are more affordable to the districts; and all of the dollars eventually will be repaid to the government.

Mr. MILLER. It is a euphemism for "more expensive for the Federal taxpayer." You can't have one, I don't think, without the other.

Mr. SCHNEPF. The other side of the coin is that it would also be very expensive for the Federal Government for those districts to default and not be able to repay the loans at all.

Mr. MILLER. Mr. Manning said that everybody is going to meet their obligations, but there is one obligation that apparently CAWCD and others aren't prepared to accept, although they suggest that this should all be renegotiated. But "renegotiation" clearly means that the Government continues to forego the opportunity to use that money for whatever other purpose the Congress or others decide to put that to use in this country.

Mr. SCHNEPF. The proposal set forth by CAWCD certainly is a first step in getting the situation taken care of, and we welcome it with open arms. In fact, we couldn't survive basically without it. And so that is why we are so supportive of the CAWCD's proposal and look forward to ongoing dialogue with them.

Mr. MILLER. I understand that. This doesn't cast judgment on the merits of that. I am just saying, it's only one part of the inability to afford this project. CAWCD says, we will step in and pick up the difference between the target price and what the Federal Government is owed under the contract. Everybody agrees that is good. Then we are saddled with, I think, \$147 million in potential defaults or, best case, potential renegotiations; but there is no suggestion that is an Arizona obligation too.

Mr. SCHNEPF. I probably don't have the information necessary to really respond to that at this time. We would be happy to submit something in writing at a later date.

Mr. MILLER. Mr. Manning.

Mr. MANNING. Mr. Chairman, when we were involved in the deliberations which put this all together, the thesis behind the structuring of the package the way it was, was with the water pricing being reduced somewhat at our cost, it would allow those districts an opportunity to go out and have some potential for surviving economically, and thereby pay their debt. Obviously, it provides no guarantee. But the thesis behind creating—

Mr. MILLER. So we wouldn't need to restructure those loans?

Mr. MANNING. I think that is something the Bureau and those districts need to look at. We have not advocated that. What we have said is, we will go to the extent of agreeing to the pricing structure, let the districts take that, go find what they can in terms of other assistance.

I think, as has been pointed out earlier, they have to deal with the private bond parties too. There is significant debt there. But as far as we can go and taking on part of their risk or liability was the reduced water price.

And the thesis was they were going to be in a position to better afford to cover their debt.

Mr. MILLER. So you are not prepared to accept the potential distribution debt as an Arizona obligation at this point?

Mr. MANNING. That is correct, Mr. Chairman. The position of my board has been that they didn't participate in the taking on of that debt, and it is a debt of \$200-and-some-odd million they are not willing to assume.

Mr. MILLER. Thank you.

Mr. Pontius, let me comment on your testimony. I think the Governor's Advisory Commission sort of broke through a major threshold here with the suggestion of the trust fund. Clearly that sounds like, from earlier testimony, that is going to be fleshed out here over the next few weeks, what have you.

You have said, as Rob Smith mentioned, that this is both money and water. There are some portions of environmental restoration, enhancement, what have you, and money won't solve that problem; you need water, obviously, at a cost. As we found out today, there is a cost to every drop of water in this system.

But I think, again, there is some precedent going on here. And in each and every one of these projects, the citizens of those States have decided they needed to accommodate some environmental restoration beyond the mitigation that we have had. All of these projects have long histories of mitigation, most of which were less successful than they were intended to be. So, in fact, the mitigation wasn't as extensive as we had intended. The citizens recognized that a multiple-use project such as this means exactly that; and part of that is the enhancement or the preservation of certain environmental assets within that project area or within the State.

We did it in California with both the direct assessment of water and a direct assessment of money on both water rates and power rates within the State. It turned out the money was relatively easy. The water was worth fighting over, as is usually the case. I think there is agreement, even as we are beset with EPA rulings for the next two weeks in our State, that that account of water that we have set aside will help us meet those EPA demands but also help us meet the demands of the citizens that aren't part of EPA rulings. Various regions of our State seek to preserve the rivers for recreational, for tourism, for a whole series of, really, economic activities, but also the entertainment of their citizens beyond what the pioneers of the Central Valley Project in California originally envisioned.

So I think people ought to recognize that that is pretty much the reason why these things start to unfold in this day and age, 1993. That is where you are in the political realities, I think. It doesn't

mean you get there overnight, but it is clearly part of the discussion.

Karan.

Ms. ENGLISH. Thank you, Mr. Chairman. I have one question.

And, Roger, I would like to reread this one sentence and ask you to elaborate. It is on page 2, two sentences, actually. "We believe that it should put to rest the concerns held by some that the CAP or the CAWCD itself is at risk of financial failure. It should be noted that AMWUA has always believed that this concern is both misplaced and insignificant."

I am struck by the word "insignificant." We are here today because of its significance. And could you just elaborate a little bit on how "insignificant" you think it is?

Mr. MANNING. I don't think the issue of the CAP is insignificant. That is not what we intended to say. We do believe that, sort of like the Mark Twain quote, the announcements of my death are a little premature, that there has been much overplay of the financial risk or impending doom or failure of the project. And we think that it is misplaced, and that is not the real issue.

The real issue is: How are we going to restructure the arrangements among the subcontractors to guarantee our obligations to the United States, which, from the municipal sector I represent, we fully intend to meet?

It is not to suggest that the project or the concern about the project is insignificant. We think it is overstated. Terribly overstated. It has been carried by the press and others as sort of the—and it is probably what got us all here, was the rumors of our death.

Ms. ENGLISH. This is going to be argumentative, and I don't even really want a response but I would hope that some of the concerns of Mr. Goddard's regarding the siphons are not overstated. I mean, those seem relatively significant to me. And I just throw that out, that perhaps that word is—understates the situation.

Mr. MILLER. Mr. Stump.

Mr. STUMP. Thank you, Mr. Chairman.

Mr. Pontius, you outlined in your testimony the need for a watershed trust fund, as mentioned by our chairman, funded by, I believe, a \$15 million surcharge.

Don't you think that a surcharge similar to that as was imposed on California last year could be counterproductive, as they are now struggling to repay those CVP costs?

Mr. PONTIUS. As I understand the law in California that was passed last Congress, it proposed I think a minimum of \$6 to \$7 an acre-foot on agricultural users and, like, \$12 beginning on M&I users.

I frankly don't think those kind of numbers probably are necessary, if you put together a fund in Arizona made up of different types of revenue sources.

As I mentioned, I think the Bureau should contribute something to that fund. I think power sales—I do think that—and we strongly believe that \$15 million, when you start looking at what needs to be done out there—and a preliminary analysis is certainly what is needed—the Governor's task force compromised sort of in the middle and suggested an \$8 million fund.

I am just here to say that our position was and still is that \$15 million is more realistic. If what you really want to do is to make an impact on those areas, that is what we should be shooting for. And if you spread those costs out among different types of users and different purchasers of water and power, then it really is not that big a bite on any particular water user or ratepayer, in our opinion.

Mr. STUMP. The chairman mentioned that the money wasn't hard in California; it was the water. I submit that \$15 million additional in our costs here is going to be significant to a lot of people.

Anyway, Mr. Chairman, I want to thank you again for allowing Mr. Kyl and myself to participate on this hearing today since we are not on this committee. We appreciate your coming out.

Mr. MILLER. I appreciate your willingness to persevere with us, both you and Congresswoman English and the other members of the delegation.

I was going to exercise the right of the chairman to always have the right word—the last word, excuse me, not the right word. Although, in the chairman's mind, it is always the right word. And I guess I will.

But I do beg to differ whether or not this is significant or not. We started this hearing by being told that the Federal Government could expect to shoulder another \$1 billion worth of costs with respect to this project, much of which we have already made that decision about.

I don't know if you are all fans of C-SPAN or not, if you see the debates that go on in the Halls of Congress now for a billion dollars worth of money as we complete for various interests across this country. Between all of the interests in our society, a billion dollars is real money. There was a time, I guess, when we didn't think so. And that is how we got to the deficit we have. But it is real money.

And for the Federal Government simply to be a passive partner in the shifting of those costs is simply going to be unacceptable to our colleagues.

And around every one of these reforms, we have burnt a great deal of credibility with our colleagues, especially those in the environmental community, to get them to vote for these reforms. We have passed them by the narrowest of margins.

That is just a comment on where the concern is in the country about expenditures of Federal dollars. So there will be a very substantial threshold that has to be met. And that is just sort of a fact of contemporary political life.

Let me again thank this panel and thank all of the witnesses that helped to make this hearing, I think, comprehensive in nature. This obviously is not the last word. We hope that this committee can continue to be constructive with the entire Arizona community on this issue.

And, again, let me thank my colleagues for sitting through this day's testimony. Those who have additional comments on what they have heard or not heard, what they like or dislike, again, the

record of this committee will remain open, and you are welcome to submit those to the Natural Resources Committee over the next couple of weeks.

Mr. MILLER. With that, the committee stands adjourned.

Thank you very much to everyone.

[Whereupon, at 2:25 p.m., the subcommittee adjourned.]

APPENDIX

DECEMBER 10, 1993

ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

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ARMED SERVICES COMMITTEE
SUBCOMMITTEE ON RESEARCH
AND TECHNOLOGY
RANKING MINORITY MEMBER
SUBCOMMITTEE ON MILITARY INSTALLATIONS
AND FACILITIES

VETERANS' AFFAIRS COMMITTEE
RANKING MINORITY MEMBER
SUBCOMMITTEE ON HOSPITALS
AND HEALTH CARE
SUBCOMMITTEE ON EDUCATION,
TRAINING AND EMPLOYMENT

December 10, 1993

Mr. Rob Smith
Southwest Representative
Sierra Club
516 E. Portland St.
Phoenix, Arizona 85044

Dear Mr. Smith:

This letter is a follow-up to your testimony today before the House Natural Resources Committee field hearing on the Central Arizona Project. Time constraints during the hearing did not permit me to question the panels in the detail I would have preferred. With that in mind, I would appreciate your written response to the following questions. These questions and your responses will be made part of the official hearing record.

1. You testified that 80% of the State's water supply is utilized for agricultural purposes. Were you referring to the utilization of groundwater or Central Arizona Project (CAP) water? The Bureau of Reclamation documents that of the 1.5 million acre-foot CAP delivery, 640,000 acre feet have been allocated to municipal and industrial use (42%), 309,838 acre feet have been allocated to ten Indian communities (20%), and the remaining amount has been allocated to fifteen non-Indian agricultural entities (36%). Please provide the justification for your statement.
2. In one section of your testimony, you state that the "greatest environmental impact of the CAP is the potential to remove 1.5 million acre feet of stream flow every year from the river course." However, your testimony also notes that "there are demands elsewhere in the Lower Colorado Basin for water to serve the thirst of southern California and the Las Vegas area." I am perplexed by this argument. Is it environmentally acceptable to remove water for urban use outside Arizona, but unacceptable to remove the water from the Colorado River for the benefit of Arizona?
3. The Sierra Club supports a \$15 million environmental trust fund that is funded by "a wide variety of potential sources." I would appreciate more specifics on the funding for this program, the projects for which the funds will be

Mr. Rob Smith
December 10, 1993
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used and the method of selection for the projects. Should the funding include a per-acre surcharge on 1) CAP irrigated water; 2) municipal and industrial water? Have you analyzed the impact of such a surcharge on CAP customers?

4. I would appreciate your clarifying a statement you made in your testimony. You estimated that 90% of Arizona's desert stream habitats have been lost or degraded due to depleted groundwater tables. However, you also oppose a "target pricing" plan for agriculture that will lead to less consumption of groundwater. Your testimony appears contradictory with respect to groundwater management goals. Please explain this apparent contradiction.

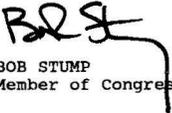
5. Do you concede that farmers in Arizona have made substantial financial commitments to the efficient use of CAP water? For example, Mr. Bill Scott of the Maricopa-Stanfield Irrigation District testified that farmers in his area had invested a total of \$2,000 per acre for the efficient utilization of CAP water.

6. In your testimony, you argue for reduction in the federal water for agriculture because cotton is a program crop that receives price supports. Are you aware that a USDA study found cropping patterns on land irrigated using Bureau of Reclamation water are shifting to higher-value specialty crops and away from USDA-supported crops?

7. Please provide me with the empirical data that led you to conclude that "it is hardly a certainty that agricultural use of 20,000 acre feet of CAP water will be sustained for 50 years."

Thank you for your consideration. I look forward to your response.

Sincerely,


BOB STUMP
Member of Congress



516 E. Portland Street
 Phoenix, Arizona 85004
 602•254•9330
 602•258•6533 FAX



SIERRA CLUB SOUTHWEST OFFICE

April 5, 1994

Congressman Bob Stump
 House of Representatives
 Washington, DC 20515

Dear Congressman Stump,

This letter will respond to your questions regarding my testimony before the House Natural Resources Committee field hearing on the Central Arizona Project.

Question 1. "You testified that 80% of the State's water supply is utilized for agricultural purposes. Were you referring to the utilization of groundwater or Central Arizona Project (CAP) water? The Bureau of Reclamation documents that of the 1.5 million acre-foot CAP delivery, 640,000 acre feet have been allocated to municipal and industrial use (42%), 309,838 acre feet have been allocated to ten Indian communities (20%), and the remaining amount has been allocated to fifteen non-Indian agricultural entities (36%). Please provide the justification for your statement."

Answer: I testified that "nearly 80% of our state's water supply goes to agriculture". That figure refers to all water, not just CAP allocations. The source is 1990 statistics from the Arizona Department of Water Resources which report that agriculture uses 78% of the total water demand for Arizona, mining and power 4%, and municipal and industrial 18%.

Question 2. "In one section of your testimony, you state that the 'greatest environmental impact of the CAP is the potential to remove 1.5 million acre feet of stream flow every year from the river course.' However, your testimony also notes that 'there are demands elsewhere in the Lower Colorado Basin for water to serve the thirst of southern California and the Las Vegas area.' I am perplexed by this argument. Is it environmentally acceptable to remove water for urban use outside Arizona, but unacceptable to

remove the water from the Colorado River for the benefit of Arizona?"

Answer: These two statements were not made to suggest the perplexing tradeoff you ask about. Our proposal was to leave a significant amount of water in the Colorado River for environmental purposes, which could be credited against the CAP repayment debt, and to encourage conservation through marketing water to the highest bidder among Lower Basin States. The current Soviet-style command and control allocation system for water encourages use regardless of economic efficiency or the real needs of most people.

Question 3. "The Sierra Club supports a \$15 million environmental trust fund that is funded by 'a wide variety of potential sources.' I would appreciate more specifics on the funding for this program, the projects for which the funds will be used and the method of selection for the projects. Should the funding include a per-acre surcharge on 1) CAP irrigated water; 2) municipal and industrial water? Have you analyzed the impact of such a surcharge on CAP customers?"

Answer: Attached is a list of potential funding sources and examples of projects that might be appropriate to support through such a fund. We supported Governor Symington's original legislation to establish such a fund and create a commission reflecting appropriate interests and expertise to decide how to spend the money; unfortunately, this particular legislative proposal failed in the State Legislature this year. A variety of funding sources could spread the burden lightly over all CAP users.

Question 4. "I would appreciate your clarifying a statement you made in your testimony. You estimated that 90% of Arizona's desert stream habitats have been lost or degraded due to depleted groundwater tables. However, you also oppose a 'target pricing' plan for agriculture that will lead to less consumption of groundwater. Your testimony appears contradictory with respect to groundwater management goals. Please explain this apparent contradiction."

Answer: I stated that "up to 90% of our desert streams habitats have been lost or seriously degraded due to depleted groundwater tables, diversions or channelizations." There is more than one way to decrease groundwater pumping, and I suggested in my testimony that our preference would be "conversion to lower water use crops, raising the groundwater pump tax to a point where CAP water is more economically attractive or simply decreasing agricultural use."

Question 5. "Do you concede that farmers in Arizona have made substantial financial commitments to efficient use of CAP water? For example, Mr. Bill Scott of the Maricopa-Stanfield Irrigation District testified that farmers in his area had invested a total of

\$2,000 per acre for the efficient utilization of CAP water."

Answer: Yes, many farmers have made big investments in water efficiency -- often over their objections. However, the larger point I attempted to make in my testimony was that much irrigated agriculture in Arizona, especially for high-water use crops like cotton, is a fundamentally bad idea because it costs more than its worth regardless of how efficiently it might be done.

Question 6. "In your testimony, you argue for reduction in the federal water for agriculture because cotton is a program crop that receives price supports. Are you aware that a USDA study found cropping patterns on land irrigated using Bureau of Reclamation water are shifting to higher-value specialty crops and away from USDA-supported crops?"

Answer: But not quickly enough. The top two crops in terms of acreage in Arizona are still cotton and its rotation partner alfalfa. Those two also use at least twice the water of other Arizona crops. Conversion to other crops is discouraged by the continued subsidy support of cotton farming, which totalled more than \$26 million for Arizona alone in 1991.

Question 7. "Please provide me with the empirical data that led you to conclude that 'it is hardly a certainty that agricultural use of 20,000 acre feet of CAP water will be sustained for 50 years.' "

Answer: My testimony stated "it is hardly a certainty that agricultural use of 200,000 acre feet of CAP water will be sustained for 50 years given the recent history of over-optimistic projections of project use." Aside from the order of magnitude difference in water amounts, it is completely speculative about conditions 50 years from now. Obviously the CAP wouldn't be the subject of discussion now if original projections about use and cost had held firm.

Thank you for allowing me the opportunity to respond to your questions. I appreciate your offer to make my response a part of the hearing record.

Sincerely,



Rob Smith
Southwest Representative

Environmental Recommendations and Considerations
for Water Allocations and an Environmental Trust Fund for
Central Arizona Project
10/20/93

- I. Establish an allocation of CAP water for the protection and enhancement of threatened and endangered species, and for fish and wildlife purposes.

Allocation recommendation: 150,000 AF (125,000 AF for mainstem needs and 25,000 AF for central Arizona needs). 15,000 AF of water reserved for central Arizona uses would be M&I priority water, the remainder would be non-Indian ag water that may be available for re-allocation.

Assumptions:

1. An allocation of CAP water for the conservation and development of fish and wildlife resources would result in a reduction in capital repayment obligations of the District (see letter from Bureau to the Arizona Department of Water Resources, September 3, 1993).
2. Water used on the mainstem Colorado and not delivered through the CAP system would not result in any additional OM&R charges to the District.
3. Water delivered through the CAP system would require payment of OM&R costs. The federal government may pay these costs, depending upon the use of the water and the federal interests such uses would serve.
4. The Secretary can re-allocate uncontracted CAP water for fish and wildlife purposes.

Discussion:

To develop precise estimates of water needs and costs will require more technical study. In addition, there are a number of issues that will require building a consensus and developing the fish and wildlife projects in greater detail, including quantification of water use and location. The key component to initiate project development in any of these areas is the requirement that CAP water be available for protection and enhancement of threatened and endangered species and the conservation and development of fish and wildlife resources; a firm water supply must be assured by a re-allocation of CAP water for these express purposes. In the event that adequate uses for this water cannot be identified after a reasonable period, this water could be re-allocated. During the period in which any of this water is not put to use for endangered species and fish and wildlife purposes, it could be made available to the District for

other uses in a similar manner to other CAP water which has been contracted for and not scheduled for delivery.

Through the work of the Governor's Advisory Committee Environmental sub-committee and the Bureau's Arizona Project Office staff, several proposals are presented below for further study.

A. Lower Colorado River mainstem fish and wildlife resource needs:

1. Firming up water needed to support the continued existence of the Cienega de Santa Clara.

Currently, 132,000 AF of water is available to the Bureau from the Coachella Valley Canal lining project. This "saved" water can be used by the U.S. to meet Mexico treaty obligations in lieu of the water that would have been supplied by the desalinization of Wellton-Mohawk return drainage. This water is available until a shortage is declared on the river at which point California has a call on this water. As long as this water is available, the Bureau's need to operate the Yuma desalter is reduced if not eliminated.

2. Reducing daily fluctuations in mainstem river flows.

These fluctuations in river flows and reservoir pools have been identified as a factor in reducing the success of both bonytail chub and razorback sucker spawning, both of which are listed as endangered native fish species.

3. Providing additional water to supply marsh and backwater areas, important habitats for a variety of fish and wildlife species.

The USFWS has identified needs at Topock Marsh, on the Lake Havasu NWR, and at both Cibola and Imperial NWRs. A rough first estimate of those needs, and to expand riverine and lake backwater areas for rearing of endangered fish for reintroduction into the mainstem, would be 50,000 AF.

4. Increasing stream flows in the Yuma and Limotrophe Divisions of the lower Colorado River to enhance aquatic, wetland and riparian habitats.
5. Providing water for restoration of native riparian vegetation to replace exotic salt cedar and abandoned agriculture areas.

B. Central Arizona stream enhancement and restoration through recharge projects which utilize natural streamcourses.

Several opportunities have been identified to restore riparian and aquatic ecosystems in conjunction with proposed M&I recharge projects involving natural watercourses. These sites tentatively include: the Agua Fria River, Santa Cruz River on the San Xavier District of the T'Ohono O'Odham Nation, Canada del Oro in Pima County, and the Salt River below Granite Reef Dam. These projects are not sufficiently well-developed technically to identify fish and wildlife enhancement opportunities that enable us to quantify water requirements. In addition, issues regarding water quality and the protection of native fish species need to be adequately addressed.

The overall justification for these projects should be driven by recharge needs. An opportunity exists to optimize the design and construction of these projects to enhance or maximize the ability of these projects to restore or create aquatic, wetland and riparian habitats. The amount of water needed and the cost of that CAP water, coupled with any related design and construction costs which are necessary to optimize the project to also provide fish and wildlife benefits should be the focus of any technical feasibility analysis to avoid "subsidizing" M&I recharge projects through the use of fish and wildlife water.

C. CAP water exchanges to enhance streamflows in functioning natural stream systems. These include:

1. Optimizing flows below Stewart Mountain dam on the Salt River.

This will require further consultation with the Salt River Project and the Tonto National Forest.

2. Optimizing flows on the East Verde River and East Clear Creek through changes in Blue Ridge Reservoir operations.

This will require further consultation with Salt River Project, Phelps Dodge Corporation, the Tonto and Coconino National Forests.

3. Dedicating effluent to the upper Santa Cruz River via an exchange of City of Nogales and Rio Rico CAP allocations with the federal government.

This will require further consultation with the City of Nogales, the Avatar Corporation, the International Boundary and Water Commission, and the country of Mexico.

4. San Pedro

Another exchange of CAP allocation or other water supply enhancement plan for the Sierra Vista area (plus water conservation) will be required if the San Pedro-- a National Riparian Conservation Area--is to be protected from dewatering by groundwater pumping.

II. Establish an Environmental Trust Fund

Fund Amount: \$ 15,000,000/year. The fund could begin at a smaller amount in the initial years increasing to \$8M/year in five years and \$15M/year in 10 years.

Discussion: The 1968 Colorado River Basin Project Act states that one of the project purposes of the Central Arizona Project was the "conservation and development of fish and wildlife resources". Twenty-five years and \$4 billion in federal appropriations later, not one dollar was spent, nor was any aspect of the project designed and constructed, for the express purposes of conservation and development of fish and wildlife resources. It is important to clarify that over the years there have been a number of changes in project design and construction to avoid or mitigate environmental impacts, but these mitigation efforts should not be construed as environmental project benefits. They are simply an attempt to prevent further loss or degradation of fish and wildlife resources.

At this late date, The Central Arizona Project's ability to meet the needs of fish and wildlife resources is very constrained due to the fact that project design and construction is nearly complete. Because of the complete lack of attention towards the conservation of fish and wildlife resources in the original design and construction of the project, it is essential that any project re-structuring provide a mechanism whereby the project can develop a dedicated source of revenue to enhance statewide protection and enhancement of fish and wildlife resources in the future.

It is equally important to recognize that in the event that the Bureau of Reclamation pursues future appropriations under existing CAP authority for fish and wildlife conservation and development projects, these projects may require a 25% local cost sharing component. This local cost share requirement further underscores the need for the project to generate financial resources for the conservation and development of fish and wildlife resources.

In addition, the recent Arizona Supreme Court opinion in the Gila River adjudication puts federal interests in fish and wildlife and recreation resources associated with free flowing streams at risk from groundwater pumping. This decision by the Court places even more importance on developing financial resources to meet existing and future threats to endangered aquatic species and our

remaining riparian systems.

The Fund should grow over time to allow for adequate planning in the early years to better identify uses of the fund. Following models established recently in Central Utah Project and Central Valley Project legislation, a Central Arizona Project Trust Fund, as presented below, is the most appropriate mechanism to enable the project to provide for the conservation and development of fish and wildlife resources.

Fund Purposes:

The purposes of this fund are to establish an ongoing source of revenue for the conservation and development of fish and wildlife resources within the State of Arizona. The uses of the fund are intended to maintain, enhance, and restore aquatic, wetland and riparian habitats through the development and implementation of measures to protect water of sufficient quality and quantity needed to sustain these important habitats.

Specific measures authorized under this fund include:

1. Acquisition fee and other interests in lands or water needed to maintain, enhance and restore instream flows within stream systems to support significant aquatic, wetland and riparian habitat values. Priority attention will be given to streams which support or can support federally or state-listed threatened and endangered species or have been identified through a statewide biodiversity planning effort.
2. Data gathering, compilation and analysis needed to assist local, state, federal and tribal governments in water resource management within the following high priority watersheds: upper Santa Cruz river basin within Santa Cruz county, San Pedro river basin, Verde River basin, Salt River basin upstream of Roosevelt Lake, the Bill Williams river basin, Little Colorado River basin upstream of St. Johns, Arizona, and the Gila River above the Ashurst-Hayden dam.
3. Grants to assist private and public water utilities in developing and promoting and implementing water conservation programs outside of Active Management Areas.
4. Development and implementation of measures required to maintain or enhance water quality and water quantity within stream systems which support significant aquatic, wetland and riparian habitat values. Priority attention will be given to streams which support or can support federally or state-listed threatened and endangered wildlife or have been identified through a statewide biodiversity planning effort.

Trust Fund Management:

Management of the fund, including the disbursement of revenues, to ensure that fund revenues are expended in an appropriate manner requires the establishment of a dedicated source of revenue and an independent Board qualified to make decisions regarding funds disbursement in accord with the purposes of the fund. The following recommendations regarding such a Board are presented below:

Recommendations:

1. Funds will be placed in a segregated account established and administered by an appropriate entity. The National Fish & Wildlife Foundation may be an appropriate entity.
2. A Trust Fund Advisory Board will be established and authorized to review and select proposals for funding in accord with the purposes of the Trust Fund.
3. The Board will include 14 members. 4 ex-officio members from the Arizona Department of Water Quality, Arizona Department of Water Resources, Arizona Department of Game & Fish and the Central Arizona Water Control District. 10 additional members from the public-at-large who meet criteria that ensures they are knowledgeable and representative of environmental interests are to be appointed by the Secretary of Interior with recommendations from the Governor. 5 members are to reside in Maricopa County, 3 in Pima County, 1 Pinal County and one additional representative from outside the aforementioned three County area. Board members be nominated with input from Arizona environmental interests.

Potential Fund Projects:

Immediate Funding Needs:

1. \$500,000 for the upper San Pedro River water supply management planning effort of the San Pedro Technical Committee.
2. \$500,000 for the Upper Verde River Watershed Association planning effort.
3. \$ 3,000,000 for Cibola National Wildlife Refuge additions.
4. \$ 5,000,000 for acquisition of sensitive riparian lands within the Upper Verde River system.

Longer term funding needs:

1. Acquisition of the Planet Ranch. \$12-\$17M. Results in a gain of upwards of 10,000 AF of additional water to the mainstem based upon recent groundwater model developed by the Department of Hydrology and Water Resources at the U of Arizona under contract to the USFWS.
2. Acquisition of sewage effluent to sustain effluent-dependent systems.
3. Development of a statewide water conservation program. \$1.0M.
4. Implementation of water augmentation measures in the upper San Pedro River (e.g. effluent recharge, stormwater recharge, well spacing). \$5-10M.
5. Delivery of CAP water for purposes of perfecting an exchange with SRP to optimize flows on Salt River below Stewart Mountain Dam. Up to \$1.0M/year
6. Delivery of CAP water for purposes of perfecting an exchange with SRP and Phelps Dodge to optimize flows on East Verde River and East Clear Creek. Up to \$2.0M/year.

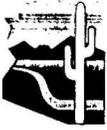
Major Questions:

1. Can the establishment and administration (including revenue collection and disbursement) be accomplished without additional legislative authority at the state and/or federal level?

FUND REVENUES

Revenue Target: \$15M/year. The funding responsibility for the trust is one of the obligations of the District. The District and the Bureau are in the best position to determine the most appropriate source of revenues. We have analyzed potential options that the District and Bureau could consider from the range of revenue sources at its disposal.

<u>Source/Mechanism</u>	<u>Fee</u>	<u>Amount</u>
Surcharge: Forbearance Agreement CA/NV	20% of water cost	200,000af x \$200af = \$ 8M
Surcharge: Forbearance Agreement (US)	20% of water cost	150,000af x \$200af = \$ 6M
Surcharge: Recharge Projects	20% of project cost	500,000af x \$100af = \$10M
Surcharge: Delivered M&I	10% of capital component of water cost	300,000af x \$ 30af = \$ 0.9M
Surcharge: Contract M&I water not scheduled for delivery	20% of capital component of water cost	400,000af x \$ 30af = \$ 2.4M
Transaction Levy: Intra-state transfers of M&I CAP allocations	\$100/af	10,000af = \$ 1.0M
Transaction Levy: Intra-state transfers of non-Indian Ag	\$20/af	100,000af = \$ 2.0M
Groundwater Withdrawal Fees	\$1.00/af increase	1,300,000af = \$ 1.3M
Pump Fee: Recovery	\$5.00/af	N/A in short term
Power Surcharge: HooverB & Navajo	% of difference between delivered and market cost	
	% of sale revenue associated with power sold on long-term contract	
Federal contributions	?	?



Central Arizona Water Conservation District

23636 NORTH 7TH STREET
PHOENIX, ARIZONA 85024 3699
(602) 670-2333

January 24, 1994

The Honorable Karan English
U.S. Congresswoman, District 6
1223 Longworth House Office Building
Washington, D.C. 20515

Re: CAWCD Response to "Testimony of Robert W. Johnson, Assistant Regional Director, Lower Colorado Region, Bureau of Reclamation on the Central Arizona Project, and James Duffus III, Director, Natural Resources Management Issues, Resources, Community, and Economic Development Division of the General Accounting Office, before the Oversight and Investigations Subcommittee of the House Committee on Natural Resources."

Dear Representative English:

This letter is our response to your request for our comments on the testimony of Messrs. Johnson and Duffus at the Congressional hearings last month. We have taken the liberty of expanding the response to include some discussion of our own proposal as well.

With regard to Mr. Duffus' testimony, we would point out that potential cost increases to the United States from resolution of the dispute between the United States and the CAWCD in CAWCD's favor and cost increases from increased water allocation for the Indian settlements and the environment are not additive. Any increase in the costs assigned to the United States as the result of the United States taking additional Indian or environmental water would lower the amount in dispute by an equal amount. If, as Mr. Duffus suggests, the United States wants so much water that its share of the cost increases by \$585 million, then the dispute between CAWCD and Reclamation is mute.

The cooperative tone of the testimony of Mr. Johnson was encouraging. We will continue to cooperate with Interior to resolve the outstanding issues which are of concern to both agencies.

Reclamation and CAWCD have a unique relationship set out in the Master Repayment Contract (MRC) and the Operating Agreement. Reclamation was responsible for planning, financing, and constructing the CAP. These responsibilities are rapidly phasing out as construction nears completion. With this phase out of major Reclamation responsibilities, CAWCD's repayment and operating roles became paramount. However, when Reclamation steps into its role as trustee for the Indians and potentially for the environment, the agency essentially becomes one customer among many. In our repayment and operation roles, we understand that Reclamation still has oversight responsibilities regarding operating issues and is the federal entity charged with creating

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repayment arrangements which will return to the federal treasury all that is owed due to the construction of the project. By refusing to identify its needs and professing to be shocked by the cost of water, Reclamation is attempting to leverage its process of financial recovery for the United States through its role as a customer. CAP water is expensive for all its Arizona users. Everyone faces uncertainties about their future needs. Simple fairness demands that Reclamation identify the amount of water that is to be reserved for federal purposes and pay for what it takes, the same as all our other customers.

Fortunately, this point seems to have been understood by the subcommittee. While CAWCD is prepared to negotiate in good faith, as a practical matter, we look for progress to be slow until the United States elects to identify its needs.

Mr. Johnson stated that the overriding concern of the Department is protecting the financial interests of the United States. That should be of great concern to the Department. Likewise, the overriding concern of CAWCD is to protect the financial and resource interests of our rate payers and taxpayers while meeting our contractual obligations to the United States. We hope that preserving Arizona's dwindling supplies of groundwater remains a concern to Reclamation as it does to us.

We were very concerned with Mr. Johnson's assertion that "the failure of CAP agriculture should not place additional financial burdens on the United States or the Indian CAP water users." As originally envisioned, the CAP's fixed OM&R cost was to be shared between the irrigation customers, the municipal customers, and the United States on behalf of the Indians. This division of costs was crafted by Reclamation. Reclamation reviewed the crop budgets of the irrigation districts and prepared water supply projections, which showed that irrigation could take and pay for all available water.

Now all parties acknowledge that the farmers cannot pay their share of the fixed OM&R of the project. After much discussion, the cities have essentially said "We didn't get the deal we were promised. Things don't always work out as people hope they will. The remaining parties will just have to share the costs that the farmers can't pay."

Reclamation position seems to be speaking as a customer and saying, "We didn't get the deal we anticipated. The cities, through CAWCD, should insulate us from the losses associated with failing to realize our expectations."

The problem with Reclamation's view, in addition to its obvious unfairness, is that neither the individual cities nor CAWCD ever agreed to assume the risk that the farmers would fail. The MRC calls for fixed OM&R costs to be paid each year in proportion to water deliveries. This is a fair way to divide the costs, but it probably is poor policy since it discourages CAP water use and rewards continued overdrafting. AMWUA, the Governor's Advisory Group and

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CAWCD have also reviewed and considered allocating fixed OM&R in proportion to entitlement since this would be at least as fair as the current contract language and would encourage CAP water use. All we have heard to date suggests that Interior won't agree to this approach. Absent some alternative, we will have no choice but to press for compliance with the current contract.

Interior and the other CAP water customers may be far apart in principle on this issue, but there may be little difference between their positions in dollar terms. Again, as a practical matter, this issue cannot be resolved until the United States identifies how much water it wants. CAWCD's municipal customers have already demonstrated a willingness to pay the costs that the farmers were supposed to pay if they get the water that the farmers were supposed to receive. CAWCD's position is simply that the United States should pay for the water that the United States keeps.

CAWCD believes that its cost allocation for the water supply system and Tucson Terminal Storage is \$1.84 billion. We believe that there is substantial evidence for our position both in the contract itself and in the written record. CAWCD negotiated this number in good faith and believed that it contained generous allowances for inflation and contingencies. This ceiling was intended to protect CAWCD's customers against construction cost overruns. At the same time, it was intended to be a defense for CAWCD against a unilateral change in the methods and assumptions used by Reclamation in allocating costs. While the allocation method is specified in the contract, it is highly technical and CAWCD wanted a greater degree of protection than would have been offered merely by the opportunity to litigate the cost allocation assumptions and methodology.

CAWCD believes that Reclamation has made errors in the application of the cost allocation procedures, but we do not believe that all of these errors were in the United States' favor. In fact, the District's share of the total cost has changed little since the 1988 agreement. We believe that the principal cause of Reclamation's proposed increase in our debt are simple cost overruns, additional costs that were not anticipated in 1988 such as scrubbers at Navajo and siphon repair, and additional interest due to unfunded OM&R to date.

CAWCD intends to negotiate the repayment ceiling with Reclamation in good faith. However, we have no intention of abandoning our existing contract because we doubt that we could obtain terms as favorable today.

CAWCD does not want Reclamation to continue spending money without a clear agreement as to how much is reimbursable by CAWCD. In the past, Reclamation has taken the position that project formulation and spending priorities were solely Reclamation's responsibility. Reclamation modified these positions during construction of the regulatory storage features when local interests contributed advance funding toward project construction. CAWCD views this notion, that local funds entitle the local interests to be partners in project decision making, as a model for completing the remainder of the project.

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Mr. Johnson identified project power revenues as an area where potential solutions to the outstanding issues might be found. We see very little potential for the United States to present a compelling argument that power revenues are available for general use associated with the project.

Mr. Johnson's final point dealt with the United States' exposure to default on the irrigation distribution system loans. Even though, as Mr. Johnson notes, CAWCD was not a party to those agreements, CAWCD worked hard to find a solution to this problem. We started working with Reclamation during the "White Paper" process and continued long after Reclamation stopped active participation. It was the Bureau's feeling that short of the "White Paper" succeeding, they could no longer be an active participant in the CAWCD's effort to find an alternative solution. We were simply unable to find a totally acceptable solution. We believe that the plan we have put forward is a step in the right direction. It didn't resolve all areas the Bureau considered necessary to reach a "comprehensive" solution for the irrigation districts (i.e., "take or pay" obligations, water pricing, restructuring of 9(d) debt). However, the plan does resolve two of those areas and leaves only that area that is fully under the purview of the Bureau - the restructuring of the 9(d) debt. We regret that this is not the comprehensive solution that Reclamation wants.

CAWCD's plan was limited to addressing the issues that simply could not be deferred after the Secretary of Interior issued the Notice of Completion. In essence, CAWCD agreed not to enforce the take-or-pay provisions in the irrigation subcontracts because the irrigation districts could not pay in any case. In return the irrigation districts renounced any long run claim on the water allowing CAWCD and the United States to seek other users. Then CAWCD agreed to sell the water to the irrigators on a short term basis at a price competitive with ground water. We agreed to do this because it lowers the price per acre foot for CAWCD's municipal customers and for the United States. It also helps preserve Arizona's groundwater. CAWCD also agreed to use tax revenues, collected almost entirely from within the service areas of our municipal customers, to mitigate the rate shock to those customers.

CAWCD's plan was supported by all of our subcontractors, the Department of Water Resources, and most members of the Governor's Advisory Committee. We do not believe that the plan solves all the problems. We do hope that we have avoided catastrophe and fostered a climate where the remaining issues can be resolved.

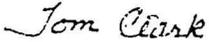
Our hope is that we can convince Reclamation to revisit the cost allocation with a view towards allocating costs to all authorized functions in better accordance with their own guidelines. The reallocation must be based on the amount of water that they realistically expect to keep for federal purposes. At this point, the United States must have separated its remaining functions, it must have dealt with the overall costs of the project on one hand and assigned them appropriately under Reclamation law while keeping the process free and independent of their trust

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Page 5

role regarding the Indians. This dual role which Reclamation must fill consistently causes problems when third-party interests are involved.

Thank you for your interest in the CAP. If you or your staff have any questions, please call Grant R. Ward at (602) 870-2338.

Sincerely,

A handwritten signature in cursive script that reads "Tom Clark".

Thomas C. Clark
General Manager

/414
ENGLISHLTR

COMMENTS OF
CYPRUS MIAMI MINING CORPORATION
TO THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
HOUSE COMMITTEE ON NATURAL RESOURCES
CONCERNING THE CENTRAL ARIZONA PROJECT
PHOENIX, ARIZONA
DECEMBER 10, 1993

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to provide comment regarding the importance of the Central Arizona Project ("CAP") to this State and to the various subcontractors of municipal and industrial ("M&I") CAP water. In particular, we appreciate your interest in learning about the use of CAP water by Cyprus Miami Mining Corporation ("Cyprus Miami"), one of numerous M&I subcontractors for CAP water in Arizona. Cyprus Miami recognizes the need to obtain and maintain reliable water resources to further economic growth in this State. In particular, substantial and dependable water supplies are likewise critical to the mining process.

The Cyprus Miami mining operation is located in Miami, Arizona near the City of Globe, in Gila County, Arizona. Employing approximately 1,000 people, Cyprus Miami paid annual salary and benefits of approximately \$51 million in 1992. Cyprus Miami also paid approximately \$75 million for supplies and services, and \$6 million in state and local taxes.

In 1992, Arizona's copper mines employed 12,100 people, paid salary and benefits of \$450 million, and produced 60% of the nation's newly-mined copper. Arizona copper mines purchased goods and services amounting to \$1.1 billion and generated approximately \$117 million in state and local taxes. The total economic benefit to Arizona from copper mining activity in Arizona during 1992 was approximately \$6.5 billion. While mining uses only about 3% of the state's total water demand, without adequate water supplies to operate the mines, these contributions to the State and local economy would not exist.

Presently, Cyprus Miami depends mainly upon groundwater resources to supply the major water needs of the mining operation. However, CAP water is essential as a replacement water source for the long term viability of the Cyprus Miami mining

operation, as well as to residents of the Globe-Miami mining area, many of whom are financially dependent, directly or indirectly, upon the local mines.

Until the 1980's, water resources in the Globe-Miami region were limited but sufficient to satisfy the demands of the local mines. Declining water tables in local basins, various lawsuits, and developments in the Gila River General Stream Adjudication, however, have required Cyprus Miami to critically evaluate its current and future water demand vis-a-vis current and potential water sources. For example, Cyprus Miami's existing water supply would be insufficient should Cyprus Miami elect to construct a new milling operation. Absent the possibilities offered by the CAP subcontract, Cyprus Miami would have little choice but to dramatically increase ground water pumping. Yet, ground water supplies are limited and subject to conflicting water rights claims of others, including municipalities, the United States, and Indian tribes.

Cyprus Miami executed its subcontract with the Central Arizona Water Conservation District ("District") and the Bureau of Reclamation ("Bureau") earlier this year. Cyprus Miami currently has a CAP allocation for 4,647 acre feet per year, which declines to 2,906 acre feet per year when the M&I demand for CAP water is fully developed. In July of 1992, Cyprus Miami requested the Arizona Department of Water Resources to reallocate an additional 8,856 acre feet per year of uncontracted-for CAP water to the mine. Cyprus Miami seeks this additional allocation to meet its current and potential future water needs, which further indicates Cyprus Miami's commitment to the CAP.

Because Cyprus Miami is located some 25 miles from the CAP, the mine must use its allocation by exchanging its CAP allocation with a downstream surface water user in order to indirectly utilize CAP water further upstream. Exchanges of water have been anticipated by the District and the Bureau as a means to deliver project water to subcontractors like Cyprus Miami whose location is such that direct delivery from the CAP is not feasible. We trust that by recognizing the importance of CAP water to the economic security, health and welfare of this State, and the critical need for CAP water both now and in the future to various subcontractors like Cyprus Miami, exchange agreements involving CAP water will be supported by the District and the Bureau.

Thank you for allowing Cyprus Miami Mining Corporation to comment in favor of the Central Arizona Project on behalf of the Arizona copper mining industry.

SAWRSA AMENDMENTS**Position of the San Xavier Allottees Association, the San Xavier Cooperative Association and the San Xavier District Council****September 27, 1993**

This memorandum responds to Mike Jackson's Memorandum of April 13, 1993 (undated), and states the position of the SXAA, SXCA and SXDC with respect to the major issues which must be addressed in any amendments to the Southern Arizona Water Rights Settlement Act of 1982 (SAWRSA). The format of Mr. Jackson's memorandum has been followed for convenience.

(1) ISSUE: What is the extent of the United States' obligation under SAWRSA to expand the San Xavier Allottee's Cooperative Farm?

San Xavier agrees with Mr. Jackson's apparent conclusion that SAWRSA § 303 obligates the federal government to improve and extend the existing irrigation system on the San Xavier Reservation as required to utilize the full § 303 CAP allocation of 27,000 acre-feet annually for agriculture.

SXAA, SXCA and SXDC POSITION: The SXDC or the SXCA should be authorized by the SAWRSA amendments to contract directly with the Bureau of Reclamation under P.L. 93-638 (Indian Self-Determination Act) to perform all of the functions of the Interior Department and the Bureau of Reclamation with respect to the rehabilitation and extension of the Cooperative Farm, **including making a determination of how large the Cooperative Farm should be**, up to a maximum size as limited by the SAWRSA / CAP water supply of 27,000 acre-feet annually. The size of the rehabilitated and extended Cooperative Farm should not be limited by the number of acres on the San Xavier Reservation historically irrigated by means of diversions from the Santa Cruz River and irrigation wells. The P.L. 93-638 contract with San Xavier should include specific provisions for the rehabilitation of Cooperative Farm areas adversely affected by sinkholes.

(2) ISSUE: To how much surface water will [San Xavier and] the Cooperative Farm be entitled and how will deliveries of such water be assured?

SXAA, SXCA and SXDC POSITION: An entity on the San Xavier Reservation representing the interests of the Tohono O'odham owners of allotted lands on the Reservation should have permanent control of and should receive all of the economic benefits of a total of 40,000 acre-feet annually of water, including all of the Reservation's SAWRSA § 303 CAP water, all 10,000 acre-feet of the Reservation's groundwater allocation under SAWRSA, and an additional 3,000 acre-feet of SAWRSA §305 water. This amount is

approximately the rateable share of the entire San Xavier Reservation water supply that the Allottees would get under the Walton rule. This water should be available for any beneficial use as determined by the controlling San Xavier entity; including M & I, agricultural, groundwater recharge, riparian habitat restoration, and recreational uses. San Xavier's domestic water supply, as well as any water used by individual allottees for agricultural purposes in addition to the Coop Farm operations, would come out of this water allocation. "Exempt wells" pumping 35 gpm or less would not be included in this allocation.

(3) ISSUE: To how much groundwater will the Cooperative Farm and the San Xavier District be entitled?

SXAA, SXCA and SXDC POSITION: See ISSUE (2) above. The San Xavier District and the Allottees should have a permanent entitlement to the full 10,000 acre-feet of groundwater that SAWRSA would allow to be pumped on the San Xavier Reservation. ASARCO should be required to abandon its claim to San Xavier's groundwater allocation, and use its own allocation of CAP water instead. The P.L. 93-638 contract with San Xavier to rehabilitate and extend the Cooperative Farm should specifically provide for an evaluation of groundwater resources available on the San Xavier Reservation within the Tucson Active Management Area.

(4) ISSUE: Quality of groundwater under San Xavier.

SXAA, SXCA and SXDC POSITION: Require the installation of groundwater quality monitoring wells on the San Xavier Reservation by either ASARCO or the BIA. Amend SAWRSA as required to ensure that claims of the Nation and the allottee landowners at San Xavier for past, present and future damages for surface and surface water contamination, and groundwater contamination, are not foreclosed by SAWRSA or the dismissal of U. S. V. Tucson and Alvarez v. Tucson.

(5) ISSUE: Control of rehabilitation and extension of Allottees' Cooperative Farm.

SXAA, SXCA and SXDC POSITION: See ISSUE (1) above.

(6) ISSUE: Approval of 638 applications for work on the Cooperative Farm.

SXAA, SXCA and SXDC POSITION: Amend SAWRSA to provide for direct negotiations and contracting between the San Xavier District and the Bureau of Reclamation for a P.L. 93-638 contract for the rehabilitation and extension of the Cooperative Farm. There is no need for approval or control by the Tohono O'odham Nation.

(7) ISSUE: The source, amount, and timing of payments for the costs of subjugating the San Xavier Cooperative Farm extension.

SXAA, SXCA and SXDC POSITION: Require that the amount necessary for the subjugation of the Cooperative Farm as required for the rehabilitation of existing Farm lands, and the extension of the Farm, all as determined by the responsible entity at San Xavier under the P.L. 93-638 contract for the rehabilitation and extension, be paid from the SAWRSA § 309 Trust Fund to the entity responsible for the rehabilitation and extension of the Farm. Payment would become due when the Plan for the rehabilitation and extension, as developed under the P.L. 93-638 contract, is approved by the Secretary.

(8) ISSUE: The source and amount of a capital working fund for the Cooperative Farm.

SXAA, SXCA and SXDC POSITION: The District and the Allottees have opposed the leasing of SAWRSA / CAP water to the City of Tucson pending completion of the rehabilitation and extension of the Cooperative Farm. The SXAA, SXCA and SXDC propose the creation and funding of an Allottee Benefit Fund as provided in the Allottees' proposed amendments to SAWRSA. The Allottees' are entitled to compensation for past damages as part of the settlement of U.S. v. Tucson. This Fund, or a portion of this Fund, can be used to provide working capital to the SXCA for the Cooperative Farm. The Allottee Benefit Fund should be funded by the "cash out" of the value of the Secretary's obligation to build "such additional canals, laterals, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A) [of SAWRSA]," on the San Xavier Reservation, as are not required for the delivery of SAWRSA water to the Cooperative Farm. The "cash-out" value of the Nation's proposed "Option 9B Farm" (which has been determined to be uneconomic) has been said to be on the order of \$25 million.

(9) ISSUE: Flood erosion of Allottees' Cooperative Farm lands.

SXAA, SXCA and SXDC POSITION: Provide expressly in SAWRSA amendments for Santa Cruz River bank stabilization at federal expense throughout the reach of the River on the San Xavier Reservation sufficient to withstand the 100 year flood.

(10) ISSUE: Past damages for trespass to the Allottees water rights.

SXAA, SXCA and SXDC POSITION: SAWRSA has no provision for payment of past damages to or for the benefit the Allottees for the taking of their water supply, interference with their water rights,

and loss of production and income from farm operations that would otherwise have been conducted. Northwest Economic Associates has documented past damages for the loss of agricultural production and income to the Allottees through 1992 at \$92 million. The Allottees' position is that all of the remaining, unrealized cash financial benefits in the proposed SAWRSA settlement, including any "cash out" of the federal obligation to build an irrigation system for the "Option 9B Farm," should go into an "Allottee Benefit Fund" to be used for social services programs and economic development on the San Xavier Reservation. As noted above, the Fund could also be used to provide working capital to the Cooperative Farm. In the alternative, the Allottees' claims against the defendants for past damages should be preserved so that the Allottees can litigate them to judgment.

(11) ISSUE: Continued applicability of 25 U.S.C. § 381 on the San Xavier Reservation; federal protection for the Allottees' water rights.

SXAA, SXCA and SXDC POSITION: SAWRSA amendments should expressly preserve the applicability of 25 U.S.C. § 381 on the San Xavier Reservation, as well as provide that the water supplies and other benefits provided to the Allottees or the San Xavier District in SAWRSA are enforceable as a matter of federal law.

The City / Nation proposed amendments to SAWRSA would make the San Xavier Allottees an exception among Allottees on all other Indian Reservations by abrogating the applicability of 25 U.S.C. {381 on the San Xavier Reservation. The San Xavier Allottees would be subject to the Nation's exclusive control of the use and allocation of their water pursuant to the Nation's proposed water code without the possibility of Secretarial intervention to ensure a just and equitable allocation of water on the San Xavier Reservation. This would leave the Allottees at the mercy of a tribal government which: (a) insists that the Allottees have no vested water rights whatsoever; (b) has a conflict of interest with the Allottees, in that the Nation financially benefits by leasing "surplus" San Xavier water to non-Indian users; (c) has sponsored SAWRSA amendments which allow the Nation to lease San Xavier's water for off-Reservation use for terms as long as 200 years; and (d) is currently in the process of attempting to lease all of San Xavier's CAP water to the City of Tucson over the objections of the District and the Allottees.

(12) ISSUE: Stabilization of the San Xavier groundwater table.

SXAA, SXCA and SXDC POSITION: SAWRSA amendments should require that the groundwater table beneath the San Xavier Reservation be permanently stabilized in order to protect the remaining San Xavier groundwater right. The SAWRSA amendments

should also expressly preserve a cause of action by the Allottees against the defendants (or anyone trespassing on San Xavier's water rights) in the event the defendants continue to mine San Xavier's groundwater. This is a very important point. The CAP is not necessarily a reliable water supply; certainly not as reliable as the natural water supply in the area. This should not be a difficult point of agreement for the defendants in U.S. v. Tucson. The Arizona Groundwater Management Act requires that the groundwater table be stabilized.

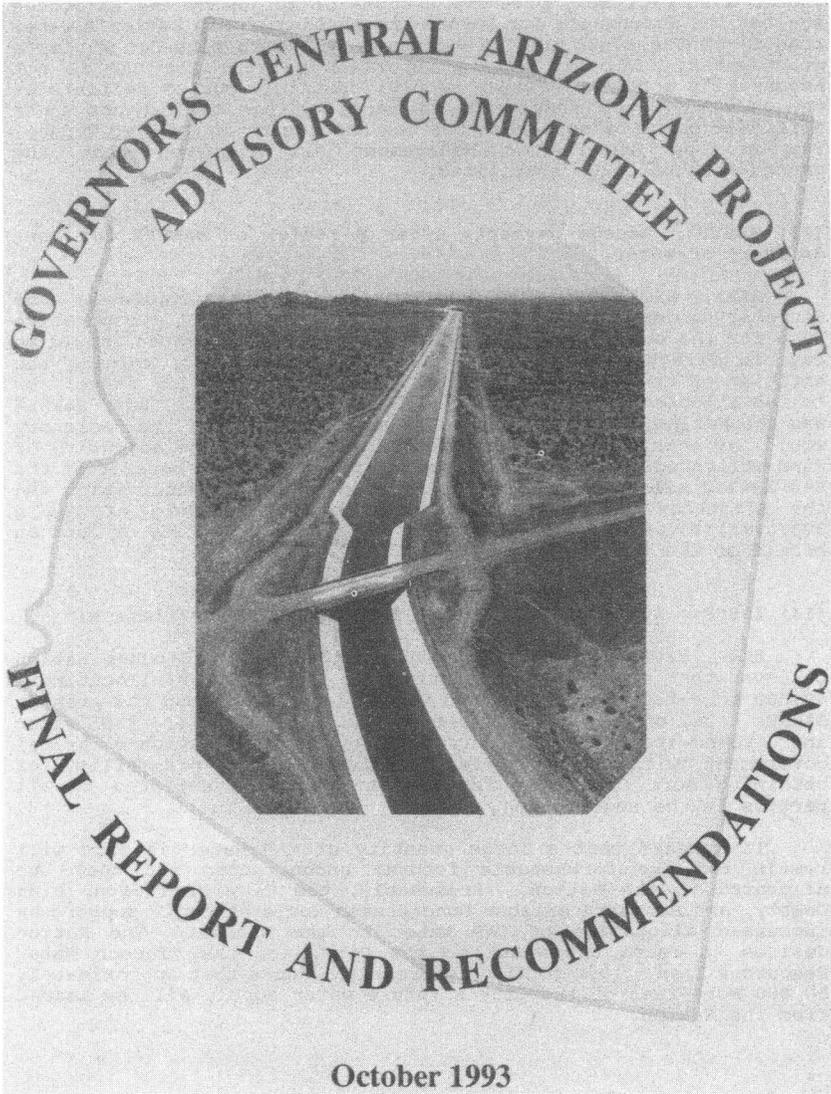
(13) ISSUE: Damage payments under § 304(c) of SAWRSA for non-delivery of water.

SXAA, SXCA and SXDC POSITION: Damages payable by the Secretary under SAWRSA § 304(c) out of the SAWRSA § 313 Cooperative Fund for the non-delivery of SAWRSA § 303(a)(1)(A) water should be payable directly to the San Xavier District entity holding the entitlement to the § 303(a)(1)(A) water (See Issue (2) above), or to the Allottee Benefit Fund (See Issue (10) above). Under SAWRSA and the Nation's 1992 proposed amendments to SAWRSA, the Secretary would pay such damages to the Nation, rather than to an entity or Fund obligated to utilize such monies for the direct benefit of the San Xavier Allottees. Since it is the San Xavier Reservation and the Allottees who would be damaged by non-delivery of the § 303(a)(1)(A) water, damages should be paid to an entity or Fund on behalf of the San Xavier Allottees.

(14) ISSUE: Additional CAP water for the SAWRSA settlement.

SXAA, SXCA and SXDC POSITION: If the Tohono O'odham Nation believes that more water is required in SAWRSA after allocating a 40,000 acre-feet entitlement to San Xavier - more than the present SAWRSA total of 76,000 acre-feet of SAWRSA § 303 water, §305 water and groundwater - in order to provide the Nation's tribal government with an adequate entitlement, the possibility of obtaining more CAP water for SAWRSA should be explored by all parties to the negotiation.

It appears that a large quantity of CAP water is (and will remain for the foreseeable future) uncontracted and could be allocated to the Nation. Presumably, the City of Tucson, Pima County, and Southern Arizona Congressmen would strongly support an increased allocation of CAP water to the Nation. The Nation desires to lease CAP water to the City, and the "Tucson Water Resources Plan - 1990 to 2100" expressly assumes that approximately 50,000 acre-feet of the City's future water supply will be leased from the Nation.



**GOVERNOR'S CENTRAL ARIZONA
PROJECT ADVISORY COMMITTEE**

***FINAL REPORT AND
RECOMMENDATIONS***

Prepared by Arizona Department of Water Resources

October, 1993

GOVERNOR'S CENTRAL ARIZONA PROJECT
ADVISORY COMMITTEE

Governor Fife Symington -- Co-Chairman
Mark DeMichele -- Co-Chairman
George Britton
Frank Brooks
Supervisor Jim Bruner
Mayor Herb Drinkwater
Katie Dusenberry
Jim Feltham
Don Gaffney
Paul Gardner
Senator John Greene
Representative Art Hamilton
Jim Henness
Tom Jensen
Supervisor Jimmie Kerr
Representative Mark Killian
Andy Laurenzi
Frank McAllister
President Ivan Makil
Mayor George Miller
John Olsen
C. M. Perkins
Gail Peters
A. J. Pfister
Karl Polen
Ron Rayner
George Renner
Senator Cindy Resnick
Priscilla Robinson
Russ Schlittenhart
Rob Smith
Leo Valdez
Richard Walden
Governor Thomas White



STATE OF ARIZONA
EXECUTIVE OFFICE

FIFE SYMINGTON
Governor

September 27, 1993

To the Arizona State Legislature;
To the Members of the Board of the Central Arizona Water Conservation District;
To the Citizens of the State of Arizona;

On behalf of the members of the Governor's Advisory Committee on the Central Arizona Project, it is our pleasure to present the report of the Committee. When the Committee was appointed, its task was to craft a plan for the operation of the CAP which would assure an adequate water supply in Arizona into the 21st century and beyond. The Committee was charged with developing a solution to the underutilization of the CAP and, because demand is a direct function of price, a key focus of the Committee was development of a pricing structure which would maximize the demand for CAP water.

While many of the questions surrounding the CAP were financial in nature, other issues went well beyond the financial condition of the Project. They include the long-term water management policies of the state including the interrelationship of the CAP to the state's Groundwater Management Act, enhancement of environmental conditions in the state and completion of Indian water rights settlements in Arizona. As the linchpin of the state's water plans and policies, the CAP is a vital part of Arizona's future growth, economic development and environmental protection strategies.

The make up of the Committee was deliberately diverse because of the magnitude of the impact of the CAP in Arizona. Its 34 members represented agricultural, business, environmental, municipal, Indian and legislative interests. Some members of the Board had significant expertise regarding the Project, while others were well versed in public policy issues and business management strategies which proved to be of great assistance to the Committee. Working together, the Committee identified the common interests among them, setting aside whenever possible the narrow self-interests that can divide. Each of the recommendations transmitted in this report is supported by a majority of the members of this Committee. This report sets forth a plan for the operation of the CAP which will ensure the efficient operation of the CAP, guarantee adequate water supplies across the state and promote an enhanced quality of life in Arizona.

Very truly yours,

Governor Fife Symington, Co-Chairman
Governor's CAP Advisory Committee

O. Mark DeMichele, Co-Chairman
Governor's CAP Advisory Committee

ACKNOWLEDGEMENTS

Countless individuals participated in making the final report of the Governor's Central Arizona Project Advisory Committee a reality. It would be impossible to list each person individually, but their contribution to this process is greatly appreciated, especially since so many of the assignments were extremely technical in nature and were completed under very tight time constraints.

However, a few individuals and organizations must be mentioned for the expertise, energy and commitment they provided in this effort:

- The members of the Governor's Central Arizona Project Advisory Committee
- Jim Feltham, Coordinator -- Financial/Legal Working Group
- Jack Pfister, Coordinator -- Environmental Working Group
- Supervisor Jim Bruner, Coordinator -- Indian Issues Working Group
- Arizona Department of Water Resources staff
- Arizona Public Service Company staff
- Central Arizona Water Conservation District staff
- United States Bureau of Reclamation staff

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INTRODUCTION

The activities, studies, and recommendations of the Governor's Central Arizona Project (CAP) Advisory Committee are summarized in this report. The CAP Advisory Committee was formed by Governor Fife Symington in December, 1992 and concluded its deliberations in September, 1993. During the course of the investigation process, the Committee developed extensive information regarding issues associated with the underutilization of water delivered through the CAP. As the studies progressed, interim reports were prepared for the Advisory Committee by the staff of the Arizona Department of Water Resources (ADWR) with assistance from the Central Arizona Water Conservation District (CAWCD) and the U.S. Bureau of Reclamation (USBR). In addition, three Working Groups of the Committee were created to address specific issues in the following areas: finance/legal, environment, and Indian settlements. Each issued a report containing findings and recommendations. The full Committee used this information to develop and adopt twenty-two action recommendations.

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

THE GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE**PURPOSE OF THE ADVISORY COMMITTEE**

Governor Fife Symington formed the Central Arizona Project Advisory Committee in mid-December, 1992. The Advisory Committee was charged with developing recommendations to assure the long-term viability of the Central Arizona Project. The Committee was originally made up of 29 members, but was expanded to 34 members to insure even greater representation by interested parties. The Committee was co-chaired by Governor Symington and Mark DeMichele, President and CEO of Arizona Public Service Company. The full roster of the Committee's members, including who they represented, is listed in the Appendix.

In forming the Advisory Committee, Governor Symington stated,

"The Central Arizona Project is Arizona's lifeline. It is our water supply for future growth and the underpinning of our progressive water management policies. It is critical for Arizona to pull together and develop a solution to make the project work."

At the Committee's inaugural meeting in early January, 1993 the Governor explained the purpose of the Committee:

"The problem facing CAP is the significant underutilization of the resource. The project was designed on the assumption agriculture would use most of the water in the early years. Due to bad market conditions, low yields and tightening credit restrictions, agricultural use has declined in recent years. Underutilization has major potential consequences. First, it could result in a substantial shift of CAP costs to the municipal and industrial sector. Second, Arizona is leaving thousands of acre feet of Arizona's CAP water in the Colorado River at a time when our neighbors, California and Nevada, are seeking additional water off the river. That situation creates a potential threat to Arizona's ability to hold onto its CAP entitlement. Finally, the underutilization and the prospect of irrigation district default on federal loans

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

brings the potential for congressional intervention to restructure the CAP. It is the Committee's charge to come up with an Arizona solution to the underutilization problem. At the end of the process, we must be able to say: this is Arizona's proposal, agreed to by Arizona's interests."

Governor Symington called the Committee together with the support of the state's water leaders. An earlier effort, the Governor's Task Force on CAP Issues, had been unable to reach a definitive solution regarding CAP problems, although they did propose a number of recommendations for further study. Following the Task Force effort, the Central Arizona Water Conservation District and the U.S. Bureau of Reclamation put forth a proposed conceptual solution to many of the issues in the form of a "White Paper." After review and discussion of the concept with interested parties, the CAWCD and the USBR found that there was little acceptance of the concept as the basis of a long-term adjustment in the repayment structure of the CAP. The CAWCD, which is the multi-county agency created to repay CAP costs to the federal government, continued to work on restructuring plans while the Advisory Committee process was ongoing.

Full utilization of the state's Colorado River entitlement has been the goal of Arizona's water management policy for decades. Central Arizona Project construction was supported by Arizona's political leadership through many battles, from gaining Congressional authorization to obtaining annual appropriations. The CAP is the linchpin of the state's plan for a secure future by providing a reliable renewable water source to replace and augment depleted groundwater sources.

COMMITTEE PLANNING OBJECTIVES

The Advisory Committee expanded on the charge given by Governor Symington by adopting a set of five planning objectives. The planning objectives provided a framework for discussions within the working groups and the full Committee meetings.

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

- Protect Arizona's entitlement of Colorado River water to provide a secure long-term water supply for growth and maintenance, and to enhance the state's quality of life.
- Ensure the financial integrity of the CAP in a cost-effective way.
- Identify how and to what extent the CAP may be utilized to enhance the state's environment. Utilize CAP water to the extent practicable to achieve this objective.
- Utilize CAP as a water supply source to complete and implement water rights settlements with Indian tribes within the state.
- Utilize CAP water to achieve water management goals in urban and rural areas of the state. Particular emphasis should be placed on implementing the goals and policies of the Groundwater Management Code.

THE ADVISORY COMMITTEE PROCESS**ORGANIZATION**

The Governor's CAP Advisory Committee adopted an organizational structure which facilitated a high level of public involvement and interaction. The study process was supported by staff from the Arizona Department of Water Resources, the Central Arizona Water Conservation District, and the U.S. Bureau of Reclamation. When special expertise was required, additional support was provided by interested parties and officials from other government agencies.

Figure 1 is a graphical representation of the organization of the Advisory Committee.

The Governor's CAP Advisory Committee

The full committee was comprised of 34 members appointed by Governor Fife Symington. The broad-based committee represented all major water user groups and included members from governmental, business, and environmental sectors. The Committee was geographically diverse by including members from Maricopa, Pinal, Pima, Yavapai and Coconino Counties.

Working Groups

Three working groups were organized from the membership of the full Committee to focus on critical issues and then report their findings to the full Committee. The working groups were initiated in April, 1993 after the background and educational phases of the studies were completed. The working groups topics were financial/legal issues, environmental issues, and Indian issues. Each working group met numerous times. All meetings were open to the public, and group discussion, which included participation by non-Committee members, was encouraged.

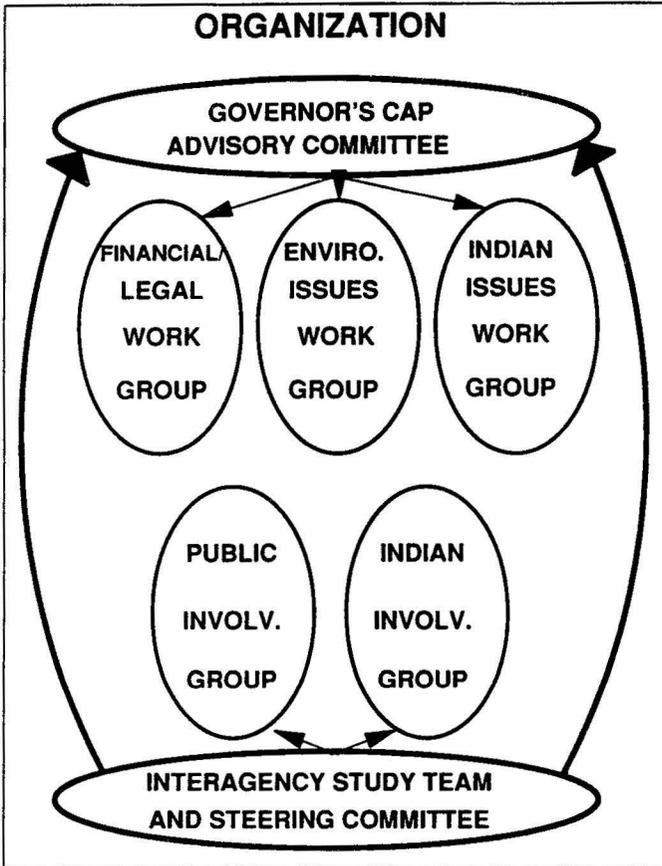


FIGURE 1

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

Interagency Study Team and Steering Committee

The Interagency Study Team was composed of staff from ADWR, CAWCD, and USBR. The team was composed of a variety of technical disciplines including engineers, lawyers, hydrologists, economists, planners, and data processing specialists. The Study Team prepared a number of reports and discussion papers which provided background information for the Advisory Committee.

The Steering Committee, comprised of representatives from the three agencies, was responsible for the overall management of the study. The Steering Committee worked closely with Co-chairman Mark DeMichele in preparation of meeting agendas, presentations, and logistics. The Steering Committee was responsible for ensuring that public input was reflected in the information which was submitted to the Advisory Committee, and that the reports or other work products were produced on schedule.

Public Involvement Group

The Public Involvement Group was not a formal committee, but rather an ad hoc group of anyone who wished to participate. The meetings of this group were well attended and reflected participation by a wide range of potentially affected interests. The purpose of the Public Involvement Group was to review studies performed by the Interagency Study Team as they were being produced so input could be received concerning assumptions and technical information. The Public Involvement Group also was used to help in the identification of issues and in developing concepts for alternative solutions. After the Working Groups were organized, the Public Involvement Group participants were invited to attend and participate in those meetings.

Indian Involvement Group

A second public involvement effort involved meetings with representatives of interested Indian communities. Since the Indian communities hold major water service contracts with the federal government for CAP water supplies, it was critical to obtain

their input on the issues and proposed solutions as the studies progressed. This effort was also folded into the Working Group effort after those groups were organized.

INVESTIGATION PROCESS

The CAP issues investigation process involved a series of steps which built upward from baseline conditions analysis through the recommendation of a series of preferred actions. Figure 2 is a diagram depicting the sequence of steps.

Step 1 - Describe the CAP as of 1993.

This step involved the collection and organization of relevant information which defines the Central Arizona Project. The baseline conditions evaluation describes CAP features and capacities, projected water supplies, demand patterns, current subcontractors and allocations, project operational constraints, power sources and supplies, costs of facilities, costs of operation and maintenance, current sources of revenue, and legal and institutional constraints.

Most of this information was available but had not been assembled into a single document. The report issued during this step provided a valuable information base for the remainder of the study.

Step 2 - Describe the likely future conditions without alternative action.

This step is often called the no-action alternative and was used for comparison with any action alternatives. Investigations projected the likely chain of events if the current contract and subcontracts were to remain in place and the projected underutilization of CAP would continue.

Determining the most likely future requires subjective judgement since most experts involved in the CAP are very uncertain about what could happen, especially if bankruptcy were to be declared by some of the subcontractors. Also of major concern to the State

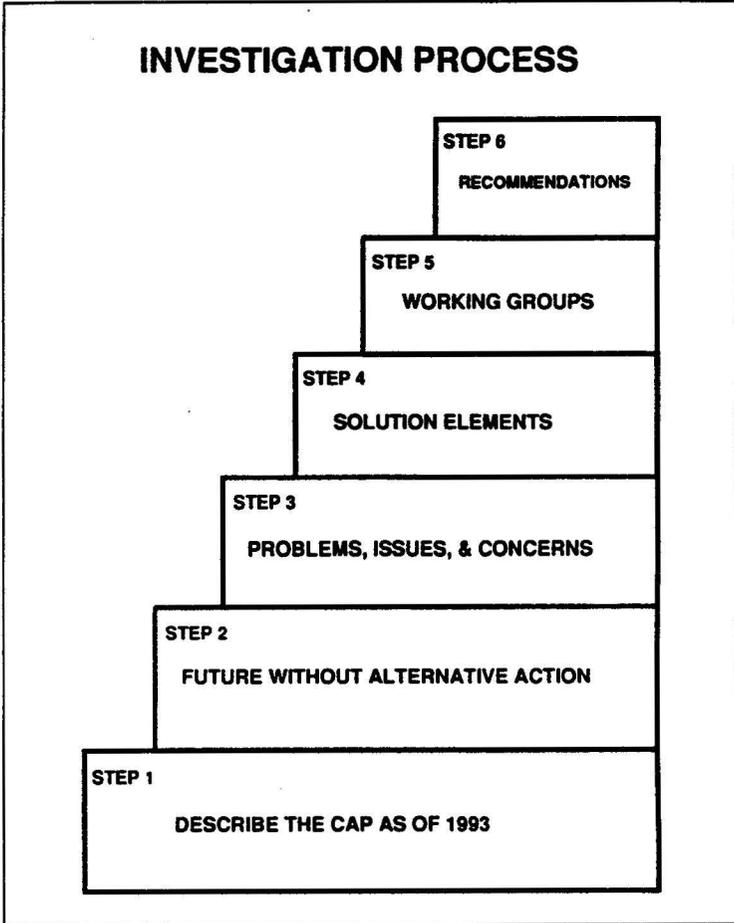


FIGURE 2

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

of Arizona are the likely effects on water management programs and the economy if large volumes of CAP water go unused.

Step 3 - Identification of problems, issues and concerns.

The purpose of this step was to list and describe the issues and concerns of the water users and the public . From previous work by the Task Force and the White Paper effort, it appeared that the primary concerns involve financial considerations and water supply allocation considerations.

Because the concerns of different parties varied greatly, each subcontractor, interested party or individual with specific expertise was provided an opportunity to have input. The results of the issues and concerns assessment were arrayed and presented to the Governor's CAP Advisory Committee.

Step 4 - Identification of solution elements.

Based on the results of Step 3, a report was prepared which described a variety of alternative solutions which could address the problems and concerns. Each solution element was briefly described and analyzed for the actions required to lead to implementation. Some possible solutions were applicable to more than one problem area.

Step 5 - Working group analysis.

As mentioned previously, working groups were formed to provide a focused analysis on three primary issue areas: financial/legal issues, environmental issues, and Indian issues. The working groups were supported by additional staff studies that developed data and provided more information on certain solution elements. Each working group prepared a progress report and a final report for consideration by the full Advisory Committee. The working group final reports contained a series of findings and recommendations.

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

Step 6 - Advisory Committee Issues Formulation and Action Recommendations.

The Governor's CAP Advisory Committee formulated a set of issues from which it developed a set of recommendations on the future operation of the CAP. The identification of key issues provided the backdrop for consideration and adoption of the Committee's final recommendations. In addition, the Committee's final recommendations were based on the working groups' recommendations. They dealt with specific action proposals in the areas of financial, water marketing, Indian and environmental issues. The adopted recommendations of the Committee are listed later in this report.

SCHEDULE AND MEETINGS

The Governor's CAP Advisory Committee began with an inaugural meeting on January 8, 1993 and completed its effort with its final meeting on September 27, 1993. The following table lists the many meetings of the Committee, Public and Indian Involvement Groups, and Working Groups.

GOVERNOR'S CENTRAL ARIZONA PROJECT ADVISORY COMMITTEE

DATE	MEETING
January 8	Governor's CAP Advisory Committee
January 28	Public Involvement Group (Phoenix)
January 29	Public Involvement Group (Tucson)
February 4	Indian Involvement Group
February 18	Governor's CAP Advisory Committee
February 23	Public Involvement Group
February 24	Indian Involvement Group
March 2	Governor's CAP Advisory Committee
March 16	Indian Involvement Group
March 18	Public Involvement Group
March 24	Governor's CAP Advisory Committee
April 6	Indian Involvement Group
April 8	Public Involvement Group
April 16	Governor's CAP Advisory Group
April 29	Joint Public Involvement and Indian Groups
May 3	Governor's CAP Advisory Committee
May 7	Finance/Legal Work Group
May 14	Finance/Legal Work Group
May 21	Finance/Legal Work Group
May 24	Environmental Work Group
May 26	Finance/Legal Work Group
May 28	Indian Work Group
May 28	Environmental Work Group
June 1	Environmental Work Group
June 4	Indian Work Group
June 4	Financial/Legal Work Group
June 11	Financial/Legal Work Group
June 17	Environmental Work Group
June 17	Governor's CAP Advisory Committee
June 25	Joint Financial/Legal Indian Work Groups
June 28	Environmental Work Group
July 9	Joint Financial/Legal Indian Work Groups
July 13	Environmental Work Group
July 16	Joint Financial/Legal Indian Work Groups
August 6	Indian Work Group
August 10	Joint Financial/Legal Indian Work Groups
August 11	Environmental Work Group
August 16	Governor's CAP Advisory Committee
September 2	Governor's CAP Advisory Committee
September 22	Public Comment Meeting (Phoenix)
September 23	Public Comment Meeting (Tucson)
September 23	Public Comment Meeting (Casa Grande)
September 27	Governor's CAP Advisory Committee

SUPPORTING DOCUMENTS AND STUDIES

During the course of the investigation process, a number of draft reports and discussion papers were prepared by the Interagency Study Team for use by the Governor's CAP Advisory Committee and the public. These reports provided background information on the CAP and described the issues and the potential solutions. At the request of the Committee, several special reports and papers were prepared. Reports provided to the Advisory Committee by the Study Team were discussed with the Public Involvement Group and Indian Involvement Group prior to their distribution.

The three working groups met to discuss specific issues and solutions from May through August. In concluding their deliberations, each group issued a report of findings and recommendations.

This section of the Final Report provides a brief synopsis of these supporting documents. Copies of the documents are available upon request from the Arizona Department of Water Resources, 15 S. 15th Ave., Phoenix, Arizona 85007, phone 602-542-1554.

Description of the Central Arizona Project -- Draft report dated February 18, 1993 and Final Report dated April 1993, prepared by ADWR

This report summarizes the various aspects of the Central Arizona Project, and includes a discussion of the physical features, institutions, laws, water allocations, contracts, and financial arrangements as they exist in 1993. Also included is a discussion of the Central Arizona Project water supply and anticipated use of that supply in 1993. The report provides much of the basic information necessary to understand current issues of underutilization of CAP water. As a result of high public interest in this report, ADWR revised this document and re-issued it in final form.

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Likely Future Conditions Without Alternative Action -- Draft report dated March 10, 1993, prepared by ADWR

This report discusses the possible likely future conditions concerning CAP utilization and water pricing. The Notice of Substantial Completion for the CAP water delivery system will be issued by the USBR on or about October 1, 1993 triggering the repayment obligations of the CAP contracts and subcontracts. Due to the depressed agricultural economy, several CAP irrigation districts may be unable to make the required payments for the CAP distribution systems. Moreover, if the water is priced at its actual delivery cost, these irrigation districts will be unlikely to pay CAWCD for their CAP allocations. If CAP debts cannot be reformulated, it is probable that some irrigation districts will utilize Chapter 9 bankruptcy to reorganize their debts. Costs of operating and maintaining the CAP will shift to the remaining customers, primarily large municipalities and some Indian Tribes, greatly increasing water charges over previous expectations. Use of CAP water will remain at very low levels in the near term but will increase gradually reflecting growth induced demand for additional municipal supplies.

CAP Irrigation District Default and Bankruptcy Issues -- Draft report, April 16, 1993, prepared by ADWR

This report provides an overview of the issues and laws which may come into play if a CAP irrigation district were to default on contract or bond obligations or seek bankruptcy reorganization under Chapter 9 of the federal bankruptcy laws. The report describes the obligations of the irrigation districts relating to CAP, including water delivery contracts and subcontracts, federal 9(d) contracts associated with the construction of irrigation distribution systems, and private bonds issued by the irrigation districts to meet the 20% cost sharing requirements of the federal 9(d) contracts. Relevant state and federal laws are discussed and analyzed. Issues associated with both non-bankruptcy remedies and bankruptcy are posed. The report concludes that there will be a high degree of uncertainty associated with a bankruptcy proceeding. However, it is likely that irrigation districts could emerge from bankruptcy with a reorganization of their debts at a rate which would make it economically feasible for them to continue in operation.

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Issues, Problems, and Concerns * Solution Elements -- Draft report, April 16, 1993, prepared by ADWR**

Part 1 of this report documents the results of information gained from interviews and questionnaires completed by over fifty-six agencies, subcontractors, Indian communities, and other interested parties. ADWR staff conducted these interviews in February and March of 1993. After the responses were analyzed, the issues, problems, and concerns were grouped into five issue areas. The issue areas are:

1. What measures are necessary to ensure that Arizona's entitlement to Colorado River Water is adequate?
2. What issues affect CAP water utilization?
3. How will the allocations to individual subcontractors affect Indian water rights settlements?
4. How can the cost of CAP water be fairly distributed?
5. What are the opportunities to use the CAP for environmental, recreational, or fish and wildlife benefits?

The responses within each issue area often differed depending on the type of subcontractor or interested party that was interviewed. Generally, those responding fell into one of the following categories: 1) large municipalities; 2) smaller cities, private water companies and industries; 3) irrigation districts; 4) Indian Tribes and communities; 5) agencies responsible for water supply planning; and, 6) citizens concerned about environmental issues.

Part 2 of this report provides information regarding various solution elements to problem areas associated with the Central Arizona Project. Eleven problem areas are described.

Solution elements are building blocks that lead to the development of alternative plans. This section of the report identifies and provides a brief concept description of those elements and identifies necessary implementation actions. Some elements provide

a complete solution to problems while others are limited and provide only partial solutions. Solution elements may also be compatible or in conflict with each other.

Marketing Colorado River Water to California or Nevada Users -- Discussion Paper, April 21, 1993

This discussion paper examines the legal authorities which make up the "Law of the River" (statutes, court cases, compacts, contracts) that might have an impact on Arizona's attempts to market Colorado River water to California or Nevada. The paper also examines the risks Arizona faces should it choose to pursue marketing of its Colorado River water, past and current efforts to market Colorado River water, and water needs in California and Nevada.

The report provides the following conclusions about interstate marketing of Colorado River Water. The "Law of the River" does not expressly prohibit interstate marketing of Colorado River water. There are, however, a number of restrictions to such agreements which must be considered in fashioning a marketing agreement. Whether this agreement is in the form of a "forbearance" agreement or a straight-forward lease or sale, Arizona faces considerable risks by pursuing a marketing agreement. If Arizona attempts to market a share of its low priority CAP water, other parties will likely demand the right to market their water, including currently unused water. Arizona may find that once this currently unused water is marketed, its low priority supply is diminished and it no longer has any water to market. If Arizona seeks to negotiate a change in the "Law of the River" that allows a direct marketing of water, it may find, after the negotiations, that the state has lost more than it is willing and can afford to give up. These very real and serious risks must be carefully considered before any action is taken toward marketing any of Arizona's entitlement to another state.

Attached as appendices to the paper are recent issue papers prepared by the Colorado River Board of California and the Colorado River Commission of Nevada.

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Marketing of CAP Water Within Arizona -- Discussion Paper, May 26, 1993, prepared by ADWR

This discussion paper was prepared to expand the concepts regarding a series of solution elements associated with marketing of CAP water and CAP allocations within the state of Arizona. The paper describes the limitations on marketing contained in existing M&I and Agricultural subcontracts. However, several sales of water have been sanctioned by Congress through Indian water rights settlement legislation. Interest in purchasing or leasing CAP allocations may exist 1) for municipal water providers, 2) for additional Indian water rights settlements, 3) for Yuma, La Paz, and Mohave County water users, 4) for environmental uses, or 5) for make up water associated with the Yuma Desalinization Plant. Supplies available for marketing could include uncontracted water subject to reallocation, existing M&I subcontracts, Indian contracts, non-Indian agricultural subcontracts, and a spot market for surplus water.

Distributed with this paper was a discussion paper titled "Enhancing Central Arizona Project Repayment and Utilization Through Market Incentives" dated April 12, 1993, by Dr. Bonnie Colby, Department of Agriculture and Resources Economics, The University of Arizona.

Findings and Recommendations of the Indian Issues Working Group -- August 6, 1993

The Indian Issues Working Group met a total of seven times either separately or jointly with the Financial/Legal Issues Working Group. This paper documents their findings and recommendations. Significant findings include the concern that existing and future Indian water rights settlements which include a CAP component are threatened by issues related to the cost of the water. If costs for energy and OM&R are high, the Indians will not be able to afford to profitably use CAP water for irrigation purposes and will not accept CAP water into the water budget of Indian settlements. The Indian Issues Working Group made seven recommendations related to Indian utilization of CAP and water rights settlements.

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Environmental Issues Working Group Report – August 16, 1993

The Environmental Issues Working Group met seven times from May through August. The Group studied a variety of issues during that time. A subcommittee of the Environmental Group prepared a paper which discussed establishment of a water allocation for the conservation and development of fish and wildlife resources; establishment of an environmental trust fund; funding sources for such a fund; establishment of a CAP mitigation advisory board; interstate water marketing; and a series of other related issues. The Working Group adopted three recommendations for consideration by the full Advisory Committee.

Report of the Financial Issues Working Group – Draft, August 16, 1993; Final, September 1993

The Financial/Legal Issues Working Group met ten times from May through August. The report documents a wide range of issues and solution elements discussed by the Working Group. The Working Group attempted to develop a financial projection model that identifies the assets and liabilities of CAWCD, its revenue sources, and projected cash outflows. In order to compare the effects of various elements, the Working Group developed a reference case model which was based upon the current operating projections of the CAP including 1) \$1.8 billion repayment ceiling, 2) CAWCD pays for siphon repairs and Navajo scrubbers from its reserve accounts, 3) water pricing for Indian use equals M&I pricing, 4) CAWCD reserve accounts are reduced to \$52 million, and 5) DWR projections for water use are assumed for model revenue projections. The report discusses the financial implications associated with power, water and other resources of CAWCD; development of cash flow projections; operations and power marketing optimization; repayment reduction alternatives; incentives for CAP use; and new revenue sources. Obtaining increased revenue from marketing of surplus power from the Navajo Generating Station was endorsed. The report discusses the potential financial benefits of lowering federal repayment obligations by including sales of water for agriculture and for environmental, fish and wildlife uses. Within the area of incentives for CAP use, the

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Working Group discussed target pricing, M&I "take or pay" for fixed OM&R costs, a groundwater pump tax, and ADWR assured water supply rules. New revenue sources included ad valorem taxes, intrastate marketing, and interstate marketing. The report concludes with nine specific recommendations for consideration by the full Advisory Committee.

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**POLICY FORMULATION AND ACTION RECOMMENDATIONS
OF THE ADVISORY COMMITTEE**

The Governor's Central Arizona Project Advisory Committee evaluated a wide range of issues related to state and federal water management policies and objectives and the operations of the CAP. The Committee recognizes that its recommendations are of an advisory nature only. However, the Committee believes that the make up of the Committee and the statewide impact of the issue make the recommendations of this Committee particularly valuable to those entities charged with the oversight and operations of the CAP. It is particularly important that those elected officials and other decision makers who are ultimately responsible for implementation of either statutes or policies affecting the CAP should give careful consideration to the Committee's recommendations.

The Committee adopted a set of Policy Issues which formed the basis upon which it developed and adopted the Committee's Action Recommendations. The Committee's Policy Issues were adopted at its August 12, 1993 meeting. The Committee's "Action Recommendations" were preliminarily adopted at its September 2, 1993 meeting. They recommend specific action proposals concerning the financial, water marketing, Indian, and environmental issues of the CAP. The recommendations were modified to reflect comments received at public meetings and adopted in final form at the Committee's September 27, 1993 meeting.

POLICY ISSUES

Policy Issue: Should state policy strive to protect Arizona's full Colorado River entitlement to assure an adequate supply for future economic growth and development?

The CAP was envisioned as the primary water management tool for the State to reduce its dependence on mined groundwater and to provide a renewable water supply for municipal, industrial and Indian related economic growth. The premise that the CAP would be a substitute for existing groundwater use in the agricultural sector was one of the fundamental justifications for the authorization and construction of the Project. Arizona

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continues to have a need for the full amount of CAP water but the current price of the water makes the agricultural sector's conversion from groundwater to CAP water cost prohibitive. Without the agricultural component of CAP demand, it is likely the state will not fully utilize its entitlement in the near term.

Key Considerations:

- Arizona's full entitlement to Colorado River water delivered by the CAP (1.5 maf/yr) must be preserved and protected to assure that the state's economic development and growth needs can be met in the future.
- To the extent Arizona does not fully utilize its CAP supplies in the short-term, negotiations with California, Nevada or the federal government must be prefaced with a demand that Arizona's low priority position on the River be improved.
- Negotiations for the acquisition of available CAP water should be considered with the following entities for the following uses: (not in priority order)
 - Federal government for fish, wildlife, and for uncommitted water for environmental purposes within Arizona.
 - Federal government for the Cienega de Santa Clara.
 - California for M&I use.
 - Nevada for M&I use.
 - Clearinghouse for available water supplies.
 - Indian water rights settlements in Arizona.

Policy Issue: In any reformulation of the CAP, how should the water management goals of the state's Groundwater Management Code be integrated into the solution?

The goals of the 1980 Groundwater Management Code, especially the safe yield goals for the Phoenix and Tucson Active Management Areas, were

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predicated, in part, on the opportunity the CAP provided to reduce dependence on mined groundwater. Assuming that water users would voluntarily convert to CAP supplies, the Code provided few, if any, tools or incentives to cause a reduction in the continued use of groundwater. Now that it appears that the original CAP pricing assumptions will be changed reducing the likelihood of voluntary use, the underlying assumptions of the Groundwater Code may be challenged.

Key Considerations:

- The State Legislature should consider statutory changes which provide incentives and reduce roadblocks to the use of CAP water. Statutory provisions under DWR, DEQ, DHS, the Arizona Corporation Commission and CAWCD should be reviewed to determine whether changes can be made which will encourage greater utilization of CAP water without violating water conservation rules and goals.
- While major changes in the Groundwater Code are probably not feasible, institutional tools such as the Assured Water Supply Rules and groundwater recharge programs provide the opportunity to increase utilization of CAP water.
- In developing the Assured Water Supply Rules, DWR should proceed with implementation of concepts proposed in its draft Assured Water Supply Rules which provide for an accelerated phase-out of groundwater as a source of supply which can be used to demonstrate an assured water supply. Also, the state should consider moving the date CAP subcontractors are no longer "deemed" to have an assured water supply forward to 1996 from 2001.
- The state, CAWCD, and other entities should pursue the expansion of artificial recharge projects to store more CAP water for the future and increase its utilization during the next ten to fifteen years.

Policy Issue: To what extent is the original purpose of the CAP as a replacement supply for irrigation still justified?

Irrigated agriculture is the largest user of groundwater in the Central Arizona Project service area. One of the Project's primary purposes was to supply water to the agricultural sector. Since no new land is allowed to be put into agricultural production using either groundwater or CAP water, CAP water is intended to be a substitute or a "rescue" supply for agriculture, which will allow it to be a sustainable industry in our state. If agriculture cannot utilize CAP water because the cost is too high, it will remain on groundwater. This will eventually deplete the state's groundwater supplies within central and southern Arizona.

Key Considerations:

- Financial assistance to agricultural irrigation districts through lower CAP costs and restructured distribution system debt should be provided but only to the extent there are benefits to the state, including the state's environment, and CAWCD's other customers.

Policy Issue: In considering a reformatted CAP, should proposals to allocate and use CAP water for environmental enhancement (not mitigation) purposes be considered?

Fish and wildlife and recreational benefits are authorized purposes of the CAP. However, no specific enhancement features were constructed nor were any specific water allocations made for these purposes. Mitigation of environmental impacts from both construction and project operation is required and is funded as a part of the Project. Additional opportunities may exist to use CAP water to create enhancement features if water allocations are made available.

Key Considerations:

- Consideration should be given to allocating some amount of CAP water for environmental purposes and to establishing an environmental trust fund dedicated

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to environmental enhancement purposes. The amount of water to be allocated and the size of the trust fund should be studied further.

- Any costs associated with Project features dedicated to environmental purposes should be nonreimbursable to the federal government.

Policy Issue: How important is the reservation of CAP water supplies for future municipal and industrial use in the state?

Municipal and industrial water use has always been a critical purpose of the CAP. Its importance grows as major urban development occurs in the Phoenix and Tucson metropolitan areas. Initial allocations of CAP water were based on requests to purchase water and on projected future demand for water. The allocation was capped at about 640,000 acre feet to reflect what was thought to be the limit of the reliable CAP supply. Some of the water providers who believed that additional water supplies would be needed for their service areas in the future have made arrangements with Indian Tribes to lease CAP water from them.

Key Considerations:

- Consideration should be given to the reallocation of additional CAP water for municipal and industrial use even though an amount in excess of 640,000 acre feet is less reliable than the original allocations.
- In order to foster the economic development and growth of our communities, CAP water provided to M & I users should be subsidized initially to increase utilization. Ultimately, CAP water must be priced at its actual cost but such pricing should occur gradually to reduce the impact of "rate shock."
- The current command and control method of distributing water allocations should be changed to incorporate free market principles into the CAP allocation process.

Policy Issue: In reformulating the CAP, what level of importance should the state place on using the CAP as a water supply for Indian water rights settlements?

The uncertainty of Indian water rights claims has created a cloud over the continued use of water by non-Indian water users in Arizona. In order to resolve these issues the state policy has been to encourage negotiated settlements of Indian claims. CAP water has been a critical component of the settlements executed to date. Additional large settlements, including settlement of the Gila River Reservation claims, remain on the horizon. Current projected costs of CAP water raise questions about its use in future Indian settlements.

Key Considerations:

- Because it is in the best interests of the Indian communities, the federal government and the state, the federal government should make settlement of outstanding Indian water rights claims in Arizona a priority.
- The state should express its continued willingness to participate in the completion of negotiations between the tribes and federal government.

Policy Issue: Should revenue sources other than water charges be utilized to lower the cost of CAP water?

Because of the reduced demand for CAP water by agriculture, it appears that its cost will be considerably higher than was predicted. Several proposals have been made to lower the impact of the price increase on water users by using other revenue sources. Subsidizing the cost will avoid "rate shock" but it also masks the true cost of water.

Key Considerations:

- The following sources of revenue should be considered:
 - Increased power revenues.

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- Continue \$0.04/per assessed \$100.00 valuation ad valorem tax through CAWCD.
Possibly expand to Pinal County.
 - Groundwater withdrawal fees.
 - Increased use of property taxes in the CAWCD service area, or statewide.
 - General fund appropriation.
-
- Create a state water bank, possibly under the direction of ADWR, to promote the utilization of CAP water consistent with the public policies of this state.

ACTION RECOMMENDATIONS**Financial Issues**

- CAWCD and the Bureau of Reclamation should carefully review their operations, searching for all opportunities for cost reduction.

- CAWCD should assess its power assets in light of the most current water use projections, and should optimize its power marketing opportunities to maximize interim revenues to assist in lowering water costs which directly effect the demand for CAP water.

- CAWCD should consider adopting a policy of target pricing to increase incentives for CAP use, ensure fair pricing for those who buy water, and to develop appropriate expectations concerning future water prices. A policy of target pricing should be developed for both M&I and agricultural subcontractors. Ultimately, the goal of a water pricing policy should be to achieve full recovery of operation, maintenance and replacement costs.

In order to fund projected deficits caused by target pricing, CAWCD should obtain additional financial authority to issue bonds in its enabling statute.

CAWCD should adopt a policy that prices water to agricultural users at or below current groundwater costs to the extent that it benefits all CAP users. This recommendation is based on studies that conclude that savings under the Master Repayment Contract would exceed the cost of agricultural deliveries even though the water is priced below the cost to deliver it. This recommendation assumes that agricultural use would continue annually for the 50 year period or, in the alternative, the cost allocation process would not impose retroactive interest liability if agricultural use declines in later years.

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- The Legislature should consider retaining the existing four cent temporary ad valorem tax beyond its expiration date, the expansion of its purposes for use by CAWCD and its applicability to Pinal County.
- The state, CAWCD and M&I subcontractors should explore ways in which, within the existing legal framework of the subcontracts, M&I subcontractors would be required to pay their share of OM&R costs whether or not they take delivery of water. The Advisory Committee recognizes that this interpretation would almost certainly result in a financial hardship on small water subcontractors, so "take or pay" for M&I subcontractors should be combined with a policy that allows a subcontractor to join a replenishment district in lieu of "take or pay" obligations. The Advisory Committee recommends that any costs associated with any CAP "take or pay" provisions be considered a tax when applied to private water companies whose rates are regulated by the Arizona Corporation Commission.
- The state should consider accelerated phase-in of assured water supply rules and move the date when cities and towns with CAP subcontracts are no longer "deemed" to have an assured water supply forward from 2001 to 1996.
- The federal government should pay the fixed operation, maintenance and replacement (OM&R) costs associated with all CAP allocations for federal purposes. When CAP water is assigned a federal purpose, such water should also carry a "take or pay" obligation for fixed OM&R costs.
- The federal government should restructure the agricultural irrigation districts' distribution system debt by recognizing the reduced payment capacity of those districts and offering deferment contracts for the full fifty year period of repayment commencing January 1, 1994.

Water Marketing Issues

- CAWCD and DWR should develop a program for intrastate marketing of CAP water. The program should enable the operation of the CAP to benefit financially from such arrangements by implementing a fee structure for such transfers. Additional benefits could also be realized by increased utilization if parties not using CAP water transferred their contracts to those who will.

- DWR should study the feasibility of arrangements in which California and Nevada take advantage of unused entitlement and canal capacity to store water in Arizona in exchange for the right to increased Colorado River diversions in the future. The cost for such water banking should be borne in full by the contracting state. This type of program could be beneficial to Arizona because it would provide a long-term source of water to a neighboring state without reducing Arizona's Colorado River entitlement and would provide additional utilization of the Project thereby reducing costs for Arizona contractors and subcontractors.

Indian Issues

- Because it is in the best interest of the Indian communities, the federal government and the state, the state should request that the federal government make settlement of outstanding Indian water rights claims in Arizona a priority.

- The state should offer its assistance in any way that is appropriate to encourage completion of water rights settlement negotiations among the Indians, federal and local governments and other entities. In particular, the state should encourage the federal government to make Indian settlements a priority, especially those settlements which have been completed between the Indians and local entities.

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- CAWCD and DWR should support the Indian communities' effort to negotiate with the federal government to assume OM&R and other appropriate costs for CAP water provided through Indian settlements and water contracts.
- The state should continue to participate financially, where appropriate, in Indian water rights settlements.
- In order to encourage the use of non-Indian agricultural water as a water source for Indian settlements, the unquantified nature of the allocation, its low priority and the "take or pay" provisions for fixed OM&R should be evaluated.
- Once a settlement has been completed, the Indians should be allowed to lease CAP water first within the CAP service area and then, within the state. This will provide a revenue source for the Indians.
- Under past settlements, non-Indians have been required to pay OM&R charges on the leased water, but capital costs have been non-reimbursable. The state should request that the federal government continue this policy.

Environmental Issues

- Three levels of water allocated for environmental enhancement, i.e. 50,000, 100,000, and 150,000 acre feet, should be evaluated. For each of these assumptions an evaluation of which costs, if any, will become a federal responsibility and what the impact would be on CAP water users should be identified. A large amount of the water reserved for environmental enhancement would be required on the Colorado mainstem and a task force should be named to discuss the economic, environmental and political consequences of an allocation of CAP water for environmental enhancement with appropriate representatives of the federal government and Colorado River Basin states.

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- The state and CAWCD should aggressively study the potential benefits from environmental, fish and wildlife use not only to produce benefits in the form of natural resource enhancement, but also because such uses potentially reduce repayment obligations on the Project. The acceptance of the \$1.8 billion repayment obligation may preclude allocation of these costs to non-reimbursable categories; however, the cost of natural resources and environmental enhancements could be used as offsets or credits against the repayment obligation under the Master Repayment Contract.
- An Environmental Trust Fund should be established as part of the Committee's recommendations on CAP restructuring. Alternative funding sources should be explored including among others, a surcharge on underground storage and recovery projects using CAP water. The Fund should be administered by the Department of Water Resources for the maintenance, enhancement and restoration of aquatic, wetland and riparian habitats. It is recommended that initially not less than \$500,000 per year be generated to start the Fund and a plan should be developed to increase the Fund to a level of not to exceed \$8 million per year.

The Governor should appoint an advisory committee with appropriate representation from environmental, business and water users organizations to advise the Department of Water Resources on the management of the Fund.

In no event would existing revenue sources currently available to the CAWCD for repayment and OM&R be used to fund the Trust Fund.

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APPENDIX

GOVERNOR'S CAP ADVISORY COMMITTEE

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ARIZONA RIVERS

Lifeblood of the Desert



ARIZONA RIVERS COALITION

Arizona is laced with ribbons of life-giving streams and rivers which provide the moisture and habitat for wildlife and recreation in otherwise forbidding country. I would like to sound a call-to-action to all of us who care about preserving Arizona's natural heritage to move vigorously ahead with WILD AND SCENIC RIVER legislation right now. Protecting our natural flowing streams makes good economic sense ...and is simply the right thing to do.

— BRUCE BABBITT, March 11, 1991



THE VIRGIN RIVER

The Virgin River is the last river to flow from a subalpine to desert ecosystem without a major dam—yet. Designating the Virgin as a *WILD AND SCENIC RIVER* is needed to protect this fascinating and fragile ecosystem.

ARIZONA RIVERS

Lifeblood of the Desert

A CITIZEN'S PROPOSAL FOR THE PROTECTION OF RIVERS IN ARIZONA

SECOND PRINTING (REVISED)



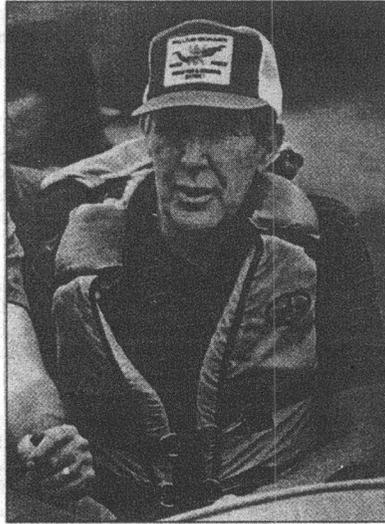
**ARIZONA RIVERS
COALITION**

**The ARIZONA RIVERS COALITION gratefully acknowledges the generous support of
Recreational Equipment, Inc. (REI) and The Marshall Fund of Arizona**

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DEDICATION

**MORRIS K. UDALL**

Arizona's only designated Wild and Scenic River, a 40 mile stretch of the Verde River, is protected for generations to come largely due to the persistence and vision of one person - former Arizona Congressman Morris K. Udall. It was Mo's hope that protecting this initial river segment would inspire future river protection in his home state.

To that vision and to honor Mo's personal leadership and dedication towards protecting our natural world for the benefit of all, the ARIZONA RIVERS COALITION dedicates this proposal and our work in seeking protection for all deserving rivers in our state to Morris K. Udall.

March 11, 1991

Dear fellow Arizonan,

To those not familiar with our state, Arizona conjures up images of cactus, deserts, canyons and mountains largely barren of vegetation. We ourselves use the rhetoric of dryness and scarcity when it comes to allocating water between cities, industry and agriculture. Let me suggest that we take a closer view.

In fact, Arizona is laced with ribbons of life-giving streams and rivers if we but look in the right places. Between those dry canyon walls and stark mountain ranges flow streams which provide the moisture and habitat for wildlife and recreation in otherwise forbidding country. The water we drink and use for economic pursuits flows down to us through this precious network of waterways. The fact that Arizona can sustain a vibrant society as well as a remarkable variety of wildlife species underscores the significance of our natural water flows.

It is also desperately important that we understand that we could lose the last of these streams if we do not act now to protect them in their natural state. Even in our brief history as a territory and then as a state we have lost nearly 90 percent of our free-flowing streams to dams, diversions and other developed uses. Our remaining waters could go the same way -- never to return to their original condition -- if we don't step forward to save them while we still have the chance.

While Governor, I established a Task Force on Recreation on Federal Lands, chaired by Scottsdale Mayor Herb Drinkwater, to make recommendations on maintaining the health of our natural resources for the enjoyment and use of Arizonans into the future. Among the programs advocated by the Task Force was support for federal Wild and Scenic river designation for deserving stretches of many of our remaining free-flowing streams. I'm personally delighted that proposals are now beginning to come forward, including this one, to do just that through Congressional action.

I would like to sound a call-to-action to all of us who care about preserving Arizona's natural heritage to move vigorously ahead with Wild and Scenic river legislation right now. The argument is compelling that protecting our natural flowing streams makes good economic sense for tourism, for water quality, for water management and for outdoor recreation. Also, from my perspective and I hope from yours as well, protecting these special places for our children is simply the right thing to do.

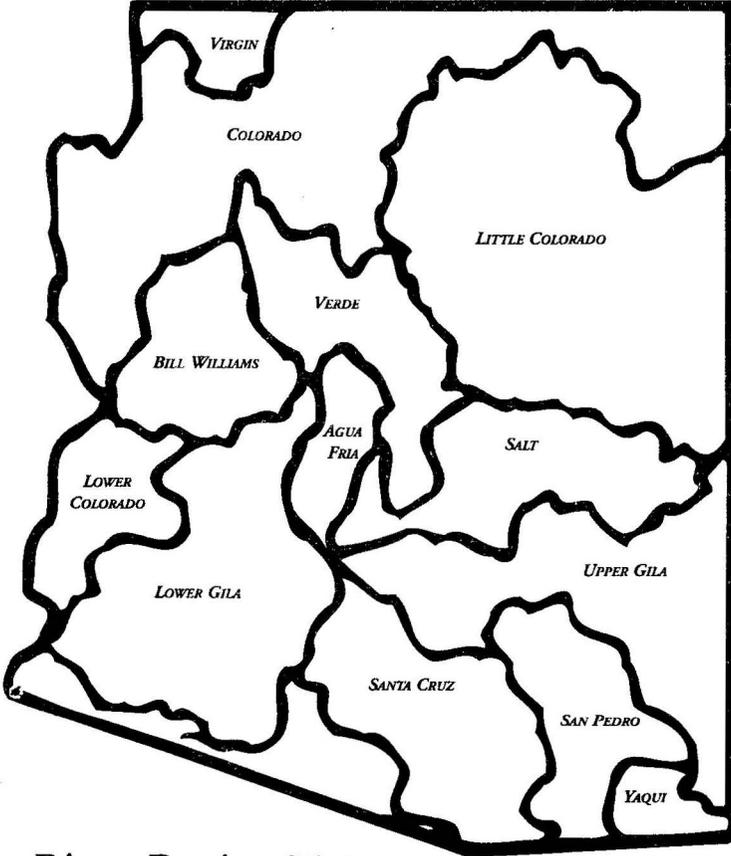
Please join me in roundly endorsing river protection for Arizona and working towards that goal with our elected officials while the opportunities are before us.

Sincerely,



BRUCE BABBITT

INTRODUCTION & PROPOSAL SUMMARY



River Basins Map

Introduction

The Wild & Scenic Rivers Act of 1968 was a far-sighted expression by Congress of national policy to protect, "for the benefit and enjoyment of present and future generations," selected "rivers . . . and their immediate environments [that] possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values." (16 U.S.C. 1271)

Over the last twenty-three years, Congress has implemented this policy by designating over one hundred-fifty river segments and 10,500 river miles as part of the national Wild & Scenic Rivers system. This activity has, however, largely bypassed the Southwest, and particularly Arizona. Only one portion of one Arizona river, the Verde, has been included, designated as part of statewide wilderness legislation enacted in 1984. As the supporting material in this volume demonstrates, many other Arizona rivers and streams qualify for national Wild & Scenic River designation.

Arizona is one of the most arid states in the Union. Its streams and wetlands have never, since the dawn of man, occupied more than a tiny fraction of the state's land area. Because of their comparative rarity and their contrast with surrounding lands, Arizona's free-flowing streams and their riparian environments are a treasure, ribbons of water and greenery laid across earth-toned landscapes. Depictions of Arizona's natural heritage, as conveyed to the world through photographs such as appear in *Arizona Highways*, frequently portray the state's surprisingly sylvan streams and rivers.

These riparian zones have outstanding ecological significance, disproportionate to that of other states. Over 75% of Arizona's native wildlife species depend upon them, including more than half of the threatened and endangered species. Cottonwood-willow riparian communities in the southwest are home to more bird species than any other ecosystem in the country, and Arizona is famed world-wide for the diversity of its bird populations.

Many of these streams also offer outstanding recreational opportunities. A half-million Arizonans fish, and the number of people engaged in hiking, birdwatching, river-running, and other activities dependent upon these areas has grown exponen-

tially in recent years.

In Arizona, as in other parts of the country, human settlements and activities have concentrated along waterways. As a result, many of the state's most significant archeological and historic sites are located along waterways.

For much of the state's history, the values offered by these riparian areas were either taken for granted or, sadly, ignored and destroyed in the rush to settle and develop the state.

The last few years have, however, witnessed a remarkable

upsurge of interest on the part of the public in protecting the dwindling number of outstanding streams and riparian areas in the state. Appreciation has spread of the vital role these areas play in maintaining biological diversity - providing wildlife habitat and migration routes, supporting diverse fisheries, and furnishing the transitional corridors between different life zones.

The escalating economic significance of these areas as recreational sites is also becoming widely recognized. River-related recreation is an important component of what has become Arizona's second most dominant industry - tourism.

Finally, a growing body of evidence demonstrates the importance of free-flowing streams and healthy riparian ecosystems in capturing water-borne

sediments and reducing the rate of siltation in reservoirs, improving water quality, facilitating groundwater recharge, and reducing peak flood flows, thus providing flood protection to downstream areas.

Concern with protecting Arizona's free-flowing streams dates back to the 1960's. The state's first comprehensive outdoor recreation plan, prepared in 1965 by the Arizona Outdoor Recreation Coordinating Commission (created by the state legislature), recommended a river conservation policy.

In the last few years, public attention and concern have come into sharper focus. A series of reports by blue-ribbon commissions, whose members represent a wide variety of interests, have without exception recognized the need for strong and immediate action to protect these streams and riparian areas. Most of these reports have specifically called for serious congressional consideration of including Arizona rivers in the national Wild & Scenic Rivers System.

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For example, in its 1986 report, the Governor's Task Force on Recreation on Federal Lands (chaired by Scottsdale Mayor Herb Drinkwater) called natural riparian areas a "fragile and threatened recreational resource" in the state. It recommended, among other things, pressing "vigorously for congressional designation of all . . . qualifying Arizona rivers into the National Wild and Scenic River System." (p. 46)

The Commission on the Arizona Environment in 1987 identified stream and riparian area protection as the top environmental action priority for the state.

In June 1989, Governor Mofford issued an executive order (No. 89-16) calling for a series of steps to improve protection of riparian areas, including creating a Riparian Habitat Task Force. Its October 1990 report called for, among other things, support for "efforts to designate qualified rivers and streams in Arizona to the National Wild & Scenic Rivers System." (Final Report, p. 19). Governor Mofford responded by issuing an executive order (No. 91-6) on February 14, 1991, that directed state agencies to "assist in the identification and evaluation of rivers and streams that might be designated as National Wild & Scenic Rivers."

An interagency team headed by the Arizona State Parks Board in 1989 published a milestone "Arizona Rivers, Streams & Wetlands Study" as part of the Statewide Comprehensive Outdoor Recreation Plan (SCORP). It contained a wealth of information about the ecological and economic importance of streams and riparian areas, documented threats to these resources, and identified strategies for their protection, one of which was adding Arizona rivers to the national Wild & Scenic Rivers System. (p. 216)

A poll in May, 1992 by the Morrison Institute for Public Policy, a research arm of Arizona State University, reported that "there is near-consensus that the state's remaining free-flowing rivers and stream-side wildlife habitats should be designated as wild and scenic". Eighty percent of Arizona residents polled favored such designation.

Perhaps the strongest, albeit indirect, indicator of public sentiment for more protection can be found in the overwhelming statewide support for the so-called "Heritage Fund" initiative at the November 1990 general election. This proposal to direct \$20 million of state lottery funds annually for natural area protection, outdoor recreation, and related projects, passed by a margin of better than 60-40. Significantly, it carried all but two

of the state's smallest of Arizona's fifteen counties, at a time when most other ballot propositions, especially those dealing with fiscal matters, were going down to overwhelming defeat.

As in the rest of the arid west, more than a century of dam-building and development projects have taken their toll on Arizona's streams. The recent SCORP report estimated that only 5-10% of the state's original riparian areas in the lower elevations remains today. (p. ES-3) Arizona rivers are dotted with impoundments, constructed with federal, state, local government and private funds. Most of these developments were built at a time when no policy existed to mitigate their adverse effects on streams and riparian ecosystems, and a number of them have entirely dewatered significant stretches of formerly free-flowing streams.

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In the Wild & Scenic Rivers Act, Congress explicitly recognized the need to redress this historic one-sidedness. The Act was intended to correct the imbalance with a new "policy that would preserve . . . selected rivers . . . in their free-flowing condition to protect the [ir] water quality . . . and to fulfill other vital national conservation purposes." (16 U.S.C. 1271)

A variety of activities - proposed new dams, indiscriminate off-road vehicle use, mining activities, and others - threaten a number of Arizona's river corridors that remain in relatively unspoiled condition. The most immediate need for Wild & Scenic River designation, then, is to provide a management tool to ensure that these rivers are available to fulfill national conservation objectives.

This is not to say that the Wild & Scenic Rivers Act "locks up" these river corridors from all non-recreational activities. Other than dam-building, most existing uses will be allowed to continue on designated Wild & Scenic Rivers. But the designation does operate to ensure that the overriding management principle for these designated rivers is to protect those values that qualify them for inclusion in the national system. That management objective is precisely what is lacking on a number of Arizona rivers, and its absence threatens their future.

In one important respect, including qualifying Arizona streams in the national Wild & Scenic River System is not as complicated or contentious as it would be in some other parts of the country. The vast majority of the river segments proposed for protection are found on federal lands; specifically, on national forest or public lands managed by the Forest Service and Bureau of Land Management, respectively. The complexities of

mixed private-public or state-federal ownerships are for the most part absent on qualifying Arizona rivers.

The experience with federal agency management to date has shown, however, that existing management tools have not proved sufficient to adequately protect these streams. Consideration of Wild & Scenic River designation has been given comparatively little attention in the Forest Service and BLM plans that are now in effect. Part of the problem is that many of the agencies' plans were prepared before the emergence of a consensus on the importance of protecting these areas.

There are, however, welcome signs that agency attitudes and policies are beginning to change. Both agencies have elevated riparian area protection among their management goals. Actual implementation of these directives on the ground has, however, not moved very fast. Moreover, the process of amending existing plans or preparing new ones has moved so slowly that it may be many years before the agencies give full attention to Wild & Scenic River designation as a management alternative. In the meantime, unfortunately, important values on a number of these rivers may be lost.

Wild & Scenic River designation would also make improved management coordination between these two federal agencies possible. Jurisdiction over a number of river corridors proposed for designation is now divided between the Forest Service and the BLM. While these two agencies have broadly similar management mandates, their approaches on the ground in particular river corridors may not be wholly consistent, and inconsistencies can adversely impact on river and riparian management.

Another important feature of qualifying rivers in Arizona helps facilitate congressional consideration. Most of the rivers proposed for designation in the state are in the upper reaches of the watersheds in which they are found, and are thus upstream from the vast bulk of present or projected water uses in the state, and from nearly all present or projected dams and diversion works. A basic protection the Act provides is to preserve and conserve the river water (subject, of course, to valid existing water rights) through the designated reach. This operates, in effect, to ensure that water as it emerges from the designated reach is not diminished in quantity, and is protected in quality, so that it remains available to support the range of conventional uses of water. The happy circumstance of the location of most of the Arizona rivers proposed for designation means that serious conflicts over water, like conflicts over land use, are minimized.

So far we have addressed mostly the conserving and protective virtues of Wild & Scenic River designation in Arizona. But it would be a mistake to conceive of these designations solely in those terms. Experience in many other parts of the country shows that designations can provide a significant boost to land values and to increasingly recreation-dependent rural economies. More broadly, new designations in Arizona would be a highly visible symbol of Arizona's growing recognition of the economic value of sensibly managing the state's marvelous natural heritage.

In short, the ultimate value of Wild & Scenic River designation is not only in the protection it affords, though this may be critical in the nearer term. Additionally, it is in the positive statement

designation makes - that good resource management makes economic and cultural sense. It promotes the kind of economy and helps sustain the quality of life that have together made Arizona such a desirable place to live.

In recent years the state's congressional delegation has taken several important steps to advance that progressive vision of Arizona's future. It has reached a bipartisan consensus on such important natural resource management issues as protecting significant tracts of federal land as wilderness in 1984 and 1990, safeguarding the Grand Canyon from intrusive airplane overflights, finding suitable alternatives to Orme and Cliff Dams in the Salt/Verde watershed, establishing the nation's first National Riparian

Conservation Area in the upper San Pedro River, and safeguarding Grand Canyon natural and cultural resources near the river with the passage of the Grand Canyon Protection Act.

Adding qualifying Arizona rivers to the national Wild & Scenic River System is a logical next step, fully consistent with the vision that has sustained these other initiatives. It is a missing piece in our continuing quest to show the nation and the world that we possess, and recognize the value of, a priceless natural heritage. It is, in short, an idea whose time has come.

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Proposal Summary

Since publication of the March, 1991 "Arizona Rivers - Lifeblood of the Desert", the Bureau of Land Management (BLM) and Forest Service (FS) have both released publications regarding the eligibility of potential wild and scenic rivers on their respective lands in Arizona.

The BLM's document, "Potential Wild and Scenic Rivers" was first released in January, 1992 at the state BLM office in a meeting with Arizona Congressional delegation representatives. BLM looked at 24 rivers in the report, finding 32 river segments on 17 rivers and creeks eligible for inclusion into the National Wild and Scenic Rivers System. BLM also committed to evaluate five rivers recommended by ARC which they have not yet reviewed. BLM included a written comparison of the ARC proposal to BLM's findings of eligibility.

The FS released their "Preliminary Analysis of Eligibility and Classification for Wild/Scenic/Recreational River Designation" in January, 1993 at public meetings held at the request of, and attended by, the Arizona congressional

delegation. The FS reviewed well over 150 rivers on their lands. They found 56 of these to be "preliminarily" eligible and have assigned preliminary classifications to the eligible segments. Both of these reports are available from the agencies.

The Arizona Rivers Coalition agrees with the eligibility findings by the agencies of rivers that are not in our proposal. We will support designation of many of these rivers, such as Aravaipa Creek and Leonard Canyon.

However, since we have been unable to research all of the additional rivers found eligible, we cannot make recommendations on many of them until the agencies have released their resource analysis on the streams, scheduled for September, 1993.

The following matrix shows the recommended classifications by the Arizona Rivers Coalition on the rivers included in this proposal along with the agencies finding of eligibility and their recommended classification.

Comparison of ARC Proposal to Agency Eligibility Findings.

RIVER NAME	ARC PROPOSAL	BUREAU OF LAND MGMT.	FOREST SERVICE
SALT RIVER BASIN			
Bear Wallow Creek	pending	—	4 miles W
Black River (main stem)	19.5 miles W	—	19.5 miles W,S,S
West Fork - Black	14 miles S,W,R	—	14 miles S,W,R
East Fork - Black	18 miles S,W,R	—	18 miles S,R
Fish Creek	12 miles W	—	10 miles S
Home Creek	pending	—	9.5 miles S
Canyon Creek	pending	—	5 miles R
Cherry Creek	33 miles W,S,R,W	—	25 miles W,S
Lower Salt River	11.5 miles R	—	11.3 miles R,R
Parker Creek	pending	—	8.5 miles S
Pinto Creek	9 miles W	—	9 miles S
Salome Creek	20 miles W	—	19 miles W
Spring Creek	pending	—	18.5 miles R,W
Tonto Creek	53 miles R,W,W	—	30 miles W,S
Upper Salt River	52 miles S,W	—	47 miles S,W,W,S
Workman Creek	pending	—	9 miles R,W
Campaign Creek	11 miles W,S	—	11 miles not eligible
Coon Creek	9.5 miles W,S	—	9.5 miles not eligible
UPPER GILA RIVER BASIN			
Blue River	66 miles S,R,W,S,W	—	53 miles S,S,R
Cherry Creek	7 miles W	—	7 miles W
Eagle Creek	26 miles R	—	26 miles R
KP Creek	pending	—	11 miles W
Pigeon Creek	16 miles W,R	—	16 miles R,W
San Francisco River	38 miles W,S,R	—	22 miles W,R
Lower San Francisco	8 miles R,W	8 miles R,W	—
Gila River (Box)	26 miles W,S	26 miles S,W,S	—
Bonita Creek	15 miles S,R	15 miles R	—
Sardine Creek	pending	—	9 miles S
Ash Creek	12 miles W	—	6 miles R
South Fork Cave Creek	6 miles W	—	7.5 miles W,S
Cima & Lower Cave Creeks	2/5 S,W	—	2.5/7 miles W,R
Marjilda Creek	pending	—	7-R
Arnett/Telegraph Creeks	pending	—	2.5/1 S,S
Gila River (middle)	27.5 miles R,W,R	34 miles R,W,R	—

* The National Park Service has found these to be eligible.

Proposal Summary (Continued)

RIVER NAME	ARC PROPOSAL	BUREAU OF LAND MGMT.	FOREST SERVICE
LITTLE COLORADO RIVER BASIN			
Chevelon Canyon	26 miles W,S	—	26 miles W,S
West Fork - LCR	10 miles W	—	10 miles W,R,W
East Fork - LCR	pending	—	11 miles S
South Fork - LCR	pending	—	9 miles S
Willow Creek	Listed w/West Clear	—	14 miles W
Willow Springs Canyon	pending	—	3 miles W
Woods Canyon	pending	—	4 miles W
Barbershop Canyon	14 miles W	—	10 miles W
East Clear Creek	65 miles W,S,R	—	25 miles S
Leonard Canyon	17 mile R	—	17 miles R
SAN PEDRO RIVER BASIN			
Grant Creek	pending	—	5 miles R
Post Creek	pending	—	2 miles S
Aravaipa Creek	11 miles W	11 miles W	—
Turkey Creek	2.5 miles R	2.5 miles R	—
Redfield/Swamp Springs	17 miles W	-/2.5 -/W	9 miles S
Buehman Creek	8 miles W,R	—	5 miles not eligible
Bass/Hot Springs	8 miles W	3.5/not 6/W	3/not
San Pedro River	34 miles S,S	46 miles R	—
SANTA CRUZ RIVER BASIN			
Cienega Creek	10 miles S	10 miles pending	—
Canada del Oro	pending	—	9 miles W,R
Romero Canyon	pending	—	8 miles W, R
Sabino Creek	pending	—	11 miles W,R
LOWER GILA RIVER BASIN			
Hassayampa River	60 miles S,W,S,R,S	15 miles pending	16 miles not eligible
AGUA FRIA RIVER BASIN			
Agua Fria River	21 miles S,W	21 miles S,W	—
VERDE RIVER BASIN			
Oak Creek	13 miles S	—	14/8 R/not eligible
West Fork of Oak Creek	12 miles W	—	8 miles W
Sycamore Creek	4 miles S, W	—	4 miles W
West Clear Creek	41 miles W,R	—	36/5 W,S/not eligible
West Beaver Creek	33 miles W,R	—	18/15 W, R/not eligible
Upper Verde River	33 miles R	—	33 miles R
Verde River - extension	10 miles W	—	10 miles W
East Verde River	56 miles R,S,W	—	22/32 R,S/not eligible
Fossil Creek	pending	—	13 miles R, W
BILL WILLIAMS BASIN			
Wright Creek	pending	13 miles S	—
Burro/Francis Creeks	62/7 W, S	53/14 W, R, W, S/R	—
Big Sandy River	pending	28 miles S,W	—
Santa Maria River	80 miles W	35 miles W,S	—
Bill Williams River	22 mile S	16/5 W, S/ pending	—

Proposal Summary (Continued)

RIVER NAME	ARC PROPOSAL	BUREAU OF LAND MGMT.	FOREST SERVICE
VIRGIN RIVER BASIN			
Virgin River	35 miles W,S,R,S	34 miles W,S,R,R	---
COLORADO RIVER BASIN			
Kanab Creek	80 miles W	22 miles re-evaluate	20 miles W
Paria River/Buckskin	35/10 W,W	33/12 W/pending	---
Colorado River - Glen Canyon*	16 miles S	---	---
Colorado River - Grand Canyon*	237 miles W	---	---
SONORA RIVER BASIN			
Rucker Canyon	pending	---	6 miles W
Sycamore Canyon	pending	---	5 miles S

Environmental Recommendations and Considerations
for Water Allocations and an Environmental Trust Fund for
Central Arizona Project
10/20/93

- I. Establish an allocation of CAP water for the protection and enhancement of threatened and endangered species, and for fish and wildlife purposes.

Allocation recommendation: 150,000 AF (125,000 AF for mainstem needs and 25,000 AF for central Arizona needs). 15,000 AF of water reserved for central Arizona uses would be M&I priority water, the remainder would be non-Indian ag water that may be available for re-allocation.

Assumptions:

1. An allocation of CAP water for the conservation and development of fish and wildlife resources would result in a reduction in capital repayment obligations of the District (see letter from Bureau to the Arizona Department of Water Resources, September 3, 1993).
2. Water used on the mainstem Colorado and not delivered through the CAP system would not result in any additional OM&R charges to the District.
3. Water delivered through the CAP system would require payment of OM&R costs. The federal government may pay these costs, depending upon the use of the water and the federal interests such uses would serve.
4. The Secretary can re-allocate uncontracted CAP water for fish and wildlife purposes.

Discussion:

To develop precise estimates of water needs and costs will require more technical study. In addition, there are a number of issues that will require building a consensus and developing the fish and wildlife projects in greater detail, including quantification of water use and location. The key component to initiate project development in any of these areas is the requirement that CAP water be available for protection and enhancement of threatened and endangered species and the conservation and development of fish and wildlife resources; a firm water supply must be assured by a re-allocation of CAP water

for these express purposes. In the event that adequate uses for this water cannot be identified after a reasonable period, this water could be re-allocated. During the period in which any of this water is not put to use for endangered species and fish and wildlife purposes, it could be made available to the District for other uses in a similar manner to other CAP water which has been contracted for and not scheduled for delivery.

Through the work of the Governor's Advisory Committee Environmental sub-committee and the Bureau's Arizona Project Office staff, several proposals are presented below for further study.

A. Lower Colorado River mainstem fish and wildlife resource needs:

1. Firming up water needed to support the continued existence of the Cienega de Santa Clara.

Currently, 132,000 AF of water is available to the Bureau from the Coachella Valley Canal lining project. This "saved" water can be used by the U.S. to meet Mexico treaty obligations in lieu of the water that would have been supplied by the desalinization of Wellton-Mohawk return drainage. This water is available until a shortage is declared on the river at which point California has a call on this water. As long as this water is available, the Bureau's need to operate the Yuma desalter is reduced if not eliminated.

2. Reducing daily fluctuations in mainstem river flows.

These fluctuations in river flows and reservoir pools have been identified as a factor in reducing the success of both bonytail chub and razorback sucker spawning, both of which are listed as endangered native fish species.

3. Providing additional water to supply marsh and backwater areas, important habitats for a variety of fish and wildlife species.

The USFWS has identified needs at Topock Marsh, on the Lake Havasu NWR, and at both Cibola and Imperial NWRs. A rough first estimate of those needs, and to expand riverine and lake backwater areas for rearing of endangered fish for reintroduction into the mainstem, would be 50,000 AF.

4. Increasing stream flows in the Yuma and Limotrophe Divisions of the lower Colorado River to enhance aquatic, wetland and riparian habitats.

5. Providing water for restoration of native riparian vegetation to replace exotic salt cedar and abandoned agriculture areas.

B. Central Arizona stream enhancement and restoration through recharge projects which utilize natural streamcourses.

Several opportunities have been identified to restore riparian and aquatic ecosystems in conjunction with proposed M&I recharge projects involving natural watercourses. These sites tentatively include: the Agua Fria River, Santa Cruz River on the San Xavier District of the T'Ohono O'odham Nation, Canada del Oro in Pima County, and the Salt River below Granite Reef Dam. These projects are not sufficiently well-developed technically to identify fish and wildlife enhancement opportunities that enable us to quantify water requirements. In addition, issues regarding water quality and the protection of native fish species need to be adequately addressed.

The overall justification for these projects should be driven by recharge needs. An opportunity exists to optimize the design and construction of these projects to enhance or maximize the ability of these projects to restore or create aquatic, wetland and riparian habitats. The amount of water needed and the cost of that CAP water, coupled with any related design and construction costs which are necessary to optimize the project to also provide fish and wildlife benefits should be the focus of any technical feasibility analysis to avoid "subsidizing" M&I recharge projects through the use of fish and wildlife water.

C. CAP water exchanges to enhance streamflows in functioning natural stream systems. These include:

1. Optimizing flows below Stewart Mountain dam on the Salt River.

This will require further consultation with the Salt River Project and the Tonto National Forest.

2. Optimizing flows on the East Verde River and East Clear Creek through changes in Blue Ridge Reservoir operations.

This will require further consultation with Salt River Project, Phelps Dodge Corporation, the Tonto and Coconino National Forests.

3. Dedicating effluent to the upper Santa Cruz River via an exchange of City of Nogales and Rio Rico CAP allocations with the federal government.

This will require further consultation with the City of Nogales, the Avatar Corporation, the International Boundary and Water Commission, and the country of Mexico.

4. San Pedro

Another exchange of CAP allocation or other water supply enhancement plan for the Sierra Vista area (plus water conservation) will be required if the San Pedro-- a National Riparian Conservation Area--is to be protected from dewatering by groundwater pumping.

II. Establish an Environmental Trust Fund

Fund Amount: \$ 15,000,000/year. The fund could begin at a smaller amount in the initial years increasing to \$8M/year in five years and \$15M/year in 10 years.

Discussion: The 1968 Colorado River Basin Project Act states that one of the project purposes of the Central Arizona Project was the "conservation and development of fish and wildlife resources". Twenty-five years and \$4 billion in federal appropriations later, not one dollar was spent, nor was any aspect of the project designed and constructed, for the express purposes of conservation and development of fish and wildlife resources. It is important to clarify that over the years there have been a number of changes in project design and construction to avoid or mitigate environmental impacts, but these mitigation efforts should not be construed as environmental project benefits. They are simply an attempt to prevent further loss or degradation of fish and wildlife resources.

At this late date, The Central Arizona Project's ability to meet the needs of fish and wildlife resources is very constrained due to the fact that project design and construction is nearly complete. Because of the complete lack of attention towards the conservation of fish and wildlife resources in the original design and construction of the project, it is essential that any project re-structuring provide a mechanism whereby the project can develop a dedicated source of revenue to enhance statewide protection and enhancement of fish and wildlife resources in the future.

It is equally important to recognize that in the event that the Bureau of Reclamation pursues future appropriations under existing CAP authority for fish and wildlife conservation and development projects, these projects may require a 25% local cost sharing component. This local cost share requirement further underscores the need for the project to generate financial resources for the conservation and development of fish and wildlife resources.

In addition, the recent Arizona Supreme Court opinion in the Gila River adjudication puts federal interests in fish and wildlife and recreation resources associated with free flowing streams at risk from groundwater pumping. This decision by the Court places even more importance on developing financial resources to meet existing and future threats to endangered aquatic species and our remaining riparian systems.

The Fund should grow over time to allow for adequate planning in the early years to better identify uses of the fund. Following models established recently in Central Utah Project and Central Valley Project legislation, a Central Arizona Project Trust Fund, as presented below, is the most appropriate mechanism to enable the project to provide for the conservation and development of fish and wildlife resources.

Fund Purposes:

The purposes of this fund are to establish an ongoing source of revenue for the conservation and development of fish and wildlife resources within the State of Arizona. The uses of the fund are intended to maintain, enhance, and restore aquatic, wetland and riparian habitats through the development and implementation of measures to protect water of sufficient quality and quantity needed to sustain these important habitats.

Specific measures authorized under this fund include:

1. Acquisition fee and other interests in lands or water needed to maintain, enhance and restore instream flows within stream systems to support significant aquatic, wetland and riparian habitat values. Priority attention will be given to streams which support or can support federally or state-listed threatened and endangered species or have been identified through a statewide biodiversity planning effort.
2. Data gathering, compilation and analysis needed to assist local, state, federal and tribal governments in water resource management within the following high priority watersheds: upper Santa Cruz river basin within Santa Cruz county, San Pedro river basin, Verde River basin, Salt River basin upstream of Roosevelt Lake, the Bill Williams river basin, Little Colorado River basin upstream of St. Johns, Arizona, and the Gila River above the Ashurst-Hayden dam.
3. Grants to assist private and public water utilities in developing and promoting and implementing water conservation programs outside of Active Management Areas.
4. Development and implementation of measures required to maintain or enhance water quality and water quantity within stream systems which support significant aquatic, wetland

and riparian habitat values. Priority attention will be given to streams which support or can support federally or state-listed threatened and endangered wildlife or have been identified through a statewide biodiversity planning effort.

Trust Fund Management:

Management of the fund, including the disbursement of revenues, to ensure that fund revenues are expended in an appropriate manner requires the establishment of a dedicated source of revenue and an independent Board qualified to make decisions regarding funds disbursement in accord with the purposes of the fund. The following recommendations regarding such a Board are presented below:

Recommendations:

1. Funds will be placed in a segregated account established and administered by an appropriate entity. The National Fish & Wildlife Foundation may be an appropriate entity.
2. A Trust Fund Advisory Board will be established and authorized to review and select proposals for funding in accord with the purposes of the Trust Fund.
3. The Board will include 14 members. 4 ex-officio members from the Arizona Department of Water Quality, Arizona Department of Water Resources, Arizona Department of Game & Fish and the Central Arizona Water Control District. 10 additional members from the public-at-large who meet criteria that ensures they are knowledgeable and representative of environmental interests are to be appointed by the Secretary of Interior with recommendations from the Governor. 5 members are to reside in Maricopa County, 3 in Pima County, 1 Pinal County and one additional representative from outside the aforementioned three County area. Board members be nominated with input from Arizona environmental interests.



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Phoenix, Arizona 85004
602•254•9330
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SIERRA CLUB SOUTHWEST OFFICE

December 16, 1993

George Miller, Chairman
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman,

Please accept the enclosed letter from several environmental groups to Reclamation Commissioner Beard for the hearing record on oversight of the Central Arizona Project. This should supplement the remarks of the environmental representatives who testified at the CAP oversight hearing in Phoenix on December 10, 1993.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rob Smith".

Rob Smith
Southwest Representative

AMERICAN RIVERS * ARIZONA WILDLIFE FEDERATION
GRAND CANYON TRUST * MARICOPA AUDUBON SOCIETY
NATIONAL WILDLIFE FEDERATION
NORTHERN ARIZONA AUDUBON SOCIETY * SIERRA CLUB

November 1, 1993

Daniel Beard, Commissioner
Bureau of Reclamation
1849 C Street, NW
Washington, DC 20240

Dear Commissioner Beard,

We understand that you may soon be considering a proposal from the Central Arizona Water Conservation District to modify their repayment and water marketing for the Central Arizona Project. This proposal is generally consistent with recommendations from the final report of Governor Symington's CAP Advisory Committee.

A key element of the CAWCD proposal and the Advisory Committee recommendations is reducing the cost of CAP water to non-Indian agriculture to encourage demand. The net effect of having non-Indian agriculture use large quantities of CAP water is to reduce CAWCD's repayment obligation to the federal government, perhaps up to \$12 million per year, since the cost of providing water for farms is interest-free.

Governor Symington and his Advisory Committee co-chair Mark De Michele deserve credit for providing a forum for consideration of environmental issues and for supporting the two environmental recommendations approved by the Advisory Committee.

However, the overall proposal is fundamentally flawed because it attempts to drive up water use in the desert rather than promote conservation of this essential resource. This is counter to trends

in water management in the Colorado Basin and elsewhere in the nation as water managers and users are coming to embrace the need for water conservation and efficient water use.

We strongly urge you to reject the CAWCD proposal for several reasons:

- * The federal taxpayer already stands to recover less than half of total CAP costs under the existing master repayment contract, and this would reduce the amount of repayment even more.
- * This approach encourages more water use rather than encouraging conservation, especially if CAP water is sold to the farms for as little as \$17 per acre foot -- less than the existing cost of pumping groundwater. Already, agriculture uses close to 80% of Arizona's water.
- * This approach reduces the amount of water potentially available to meet other competing demands along the overallocated Colorado River, including urban and environmental needs.
- * This approach is completely the opposite direction from the Administration's initiatives to reduce subsidies for natural resource use, including water from federal reclamation projects. Non-Indian agriculture already receives below-market power, price supports for surplus crops such as cotton, and many tax deductions.
- * The level of acceptance of the CAWCD plan locally is unclear, and the General Accounting Office is now auditing the CAWCD to assess its ability to meet its repayment obligations; we think it would be wise to await the outcome of this audit before approving a new repayment strategy.
- * The CAWCD argues that its repayment obligation is \$1.8 billion, while the Bureau maintains that the amount is now at least \$300 million more than that.
- * Rather than shift from groundwater to CAP for water, agriculture may choose to expand water use back to historic levels since the CAP water is so cheap and existing state limitations on groundwater use are based on much greater farm acreage than now exists.

In addition to protecting the federal taxpayer, the Bureau of Reclamation has an obligation to protect the environment. CAP authorizing legislation specifically identifies fish and wildlife enhancement as an authorized project purpose, yet none has ever been done.

Our organizations also continue to emphasize the following set

of priorities:

1) **Water allocations for fish and wildlife** -- Conservationists recommended 175,000 acre feet for the mainstem Colorado River for native fish, national wildlife refuge, and stream restoration purposes and to help assure a continuing flow of water to the Cienega de Santa Clara in Mexico; an additional 25,000 acre feet would be allocated to native fish and stream restoration purposes in central Arizona. These flows are critically needed to restore badly damaged fish and wildlife habitat and other resources.

The Governor's CAP Advisory Committee recommended studying the allocation of water for environmental enhancements in amounts between 50,000 and 150,000 acre feet, with the understanding that most of the water would be for Colorado mainstem purposes.

We seek the higher range of water allocation, and also urge that water committed to environmental values will be protected in times of drought.

2) **Environmental Trust Fund** -- Conservationists recommended an annual target of \$15 million for stream restoration, endangered native fish, water and habitat acquisition, and water conservation programs. The fund would be administered by a board reflecting conservation interests and expertise.

The Governor's CAP Advisory Committee recommended the creation of an environmental trust fund in principle, with funding starting at \$500,000 per year to possibly increase up to \$8 million per year. This fund would be administered by the Arizona Department of Water Resources and would have an advisory committee appointed by the Governor which would include a wide range of conservation, business and water user organizations. The Governor's CAP Advisory Committee also recommended that the environmental trust fund be funded from sources not available to CAWCD for raising money for project repayment.

We urge that our recommended target amount for the fund be established, that a full range of funding sources be considered, and that administration and oversight of the fund be done by conservation interests and experts.

3) **Improvements in state water policy** -- Conservationists recommended that Arizona change its water law to allow the conjunctive management of surface and groundwater to protect surface streams from groundwater overpumping, to allow the purchase and conversion of water rights for instream environmental purposes, and to stop continued groundwater overdraft outside of active groundwater management areas.

The Governor's CAP Advisory Committee made no recommendations for significant reform of Arizona's water code.

4) **Water conservation** -- Conservationists urged that water conservation be encouraged through CAP reform, including converting farming to less water-intensive crops and using pricing and other mechanisms to encourage municipal water conservation.

The Governor's CAP Advisory Committee did not recommend significant progress in this area. In fact, their recommendations are based on the goal of increasing water use, especially for agriculture.

5) **Water marketing** -- Conservationists encouraged interstate marketing of CAP water to California and Nevada to meet their demands and to provide a new source of funding for CAP repayment and environmental programs. Using CAP water may preclude the development of new environmentally destructive water developments, such as a dam and diversion along the Virgin River for Las Vegas water demand.

The Governor's CAP Advisory Committee rejected interstate water marketing.

6) **Market pricing for water and power** -- Conservationists urged that CAP water and power resources reflect market prices to encourage conservation and to raise revenues for repayment.

The Governor's CAP Advisory Committee left intact, and in fact enhanced, the below-market pricing of both water and power, especially for agricultural users.

7) **Project features not yet built** -- Conservationists have urged that authorizations to build Buttes, Hooker, Cliff/Orme and Charleston dams be removed so that efforts to protect stream and native fish values in those areas would not be impeded.

The Governor's CAP Advisory Committee remained silent in this area.

8) **Institutional reforms of CAWCD** -- Conservationists recommended reviewing CAWCD operations to identify opportunities to reduce costs and to assure that timely and full repayment of reimbursable CAP costs would occur.

The Governor's CAP Advisory Committee recommended that both CAWCD and the Bureau of Reclamation review their CAP operations to identify opportunities to save money. Currently, the General Accounting Office is conducting an audit of CAWCD's ability to meet master repayment contract obligations.

9) **Navajo Generating Station** -- Conservationists urged that CAWCD drop its challenge to the negotiated EPA rule requiring new pollution control equipment on this power plant, which is a project feature of the CAP. Recently the United States Supreme Court

refused to consider the CAWCD appeal of the EPA rule, so hopefully this issue is resolved. However, NGS operators are now planning to use limestone mined from scenic and environmentally sensitive lands near Flagstaff for the new scrubbers on the power plant.

The Governor's CAP Advisory Committee had no recommendations in this area.

We hope this helps the Bureau to identify critical basic issues which need to be addressed as you consider any proposed changes in the CAP repayment contracts or water allocations.

Sincerely,



Rob Smith
Sierra Club
516 E. Portland St.
Phoenix, AZ 85004
602-254-9330

and also on behalf of:

Gail Peters
American Rivers

Lee Kohlhase
Arizona Wildlife Federation

Tom Jensen
Grand Canyon Trust

Charles Babbitt
Maricopa Audubon Society

David Conrad
National Wildlife Federation

Keith Oswald
Northern Arizona Audubon
Society

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December 28, 1993

Via Facsimile (202)225-1931

The Honorable George Miller
 Chairman
 Subcommittee on Oversight and Investigations
 Committee on Natural Resources
 United States House of Representatives
 1324 Longworth House Office Building
 Washington, D.C. 20515-6204

Re: **Central Arizona Project-Supplemental Statement of
 Maricopa-Stanfield Irrigation & Drainage District,
 Central Arizona Irrigation and Drainage District and New
 Magma Irrigation & Drainage District**

Dear Chairman Miller and Committee Members:

This office represents the Maricopa-Stanfield Irrigation & Drainage District, Central Arizona Irrigation and Drainage District and New Magma Irrigation & Drainage District ("Districts"). These Districts are located in the Central Arizona Project. Pursuant to your statement at the December 10, 1993 Oversight Hearing on the Central Arizona Project in Phoenix, Arizona, to the effect that the record on this matter would remain open for a few weeks, the purpose of this letter is to provide responses to various testimony and statements presented at the December 10 hearing.

1. United States General Accounting Office

The testimony of the GAO emphasized that potential federal CAP costs could increase from 1.7 billion dollars to over 2.8 billion depending on the outcome of three major issues. These issues were the negotiations between the United States and CAWCD on the repayment ceiling; additional CAP allocations for Indian water rights settlements and fish and wildlife enhancement purposes; and, potential responsibility for irrigation distribution system loan obligations which are unable to be paid by the responsible irrigation districts. The GAO representatives left the impression that this potential exposure of an additional one billion dollars for the United States was somehow unanticipated and not contemplated by existing contract and law. To the contrary, negotiation of the final repayment ceiling is

The Honorable George Miller
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clearly based on interpretations of the existing master repayment contract. Additionally, additional costs incurred by the United States for increased Indian and fish and wildlife enhancement allocations are also a federal responsibility under existing contract and law and should be because they serve important federal purposes.

The federal government's assumption of some or all of the costs of the remaining 9(d) distribution system loans is probably not an anticipated federal cost but is one which could result from application of existing federal reclamation and/or municipal bankruptcy laws.

The concern of the GAO regarding CAWCD's potential inability to meet its fixed OM&R obligations for an extended period of time is largely unfounded principally due to the admission by the GAO representatives that they did not consider CAWCD's taxing authority when identifying this alleged problem. The GAO Representative also suggested that the CAWCD Restructuring Plan increases Indian water costs. As pointed out below, this is clearly not the case.

2. United State Bureau of Reclamation

First, it should be pointed out that, contrary to the testimony of Mr. Johnson, these Districts did not "reject" the White Paper Proposal for restructuring the CAP. In fact, for the most part, these Districts accepted the proposal and, for those parts which were not accepted, the Districts were responding to a direct invitation from former Commissioner Underwood to make any counter proposal the Districts deemed necessary.

Reclamation's statement also contends that Indian CAP water users should not be saddled with higher OM&R costs as a result of agriculture's inability to pay for CAP water as originally intended. Mr. Johnson suggested that Indian users will have to pay between \$80.00 and \$120.00 per acre foot for CAP water but this is clearly not the case under the restructuring and water pricing plan being implemented by CAWCD. Table 1 of the supplemental materials presented on the CAWCD Restructuring Program clearly indicates that Indian water rates will be between \$66.00 and \$115.00 per acre foot for the years 1994 through 2011 with non-Indian agricultural uses a major component of the Project. On

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the other hand, without non-Indian agricultural use, the Indian water costs would be between \$89.00 and \$135.00 per acre foot. Obviously, Indian users are benefitting from the CAWCD proposal as well as M&I and non-Indian agricultural users.

Finally, the statement was made that M&I target pricing was subsidized by future tax revenues. Rather, such target pricing is subsidized by existing CAWCD reserves to which the United States and the Indians have made no contributions. No tax increase is contemplated as part of the CAWCD Restructuring Plan.

3. Tohono O'Odham Nation and Gila River Indian Community

Representatives of these Tribes espoused legally unsupportable theories that non-Indian agricultural groundwater pumpers have deprived these Tribes of their surface and groundwater rights. These contentions are unfounded under Arizona water law and adamantly denied by the Districts. With respect to the surface water contention, the Tribes testimony assumes a connection between surface water and groundwater that has been rejected by the Arizona Supreme Court as recently as July, 1993.

The allegation that the non-Indian agricultural groundwater users have "used up" the Tribes groundwater supply is also unfounded. Groundwater use by non-Indian agriculture users has been done in accordance with Arizona law. This complaint is also often accompanied with a contention that the Pinal Active Management Area should become a "safe yield" active management area as opposed to its current status of "planned depletion". Significant public policy concerns on this difference were addressed in the passage of the 1980 Arizona Groundwater Management Act which established the Pinal AMA as a "planned depletion" AMA and these public policy concerns should not be pushed aside on the basis of some unfounded legal contentions which have no basis in Arizona law. Additionally, the recommendation that the federal government should establish the Pinal AMA as a "safe yield" AMA made in the Tohono O'Odham statement invites federal intervention into a state issue which is unwarranted and is against the rulings of federal courts that the United States must comply with state water laws.

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The Tribes contend that CAWCD's water pricing policy discriminates against them even though, as indicated above, it actually reduces their water costs in comparison to what these costs would be if there was no non-Indian agricultural use. The Gila River Indian Community statement on page 5 suggests that the maximum amount that non-Indian agriculture can pay for CAP water is \$17.00 per acre foot and this rate should also be made available to Indian irrigators. In fact, the \$17.00 per acre foot rate (which is scheduled to increase annually) is only available to those irrigation districts which have substantial financial burdens remaining resulting from the construction of their CAP water distribution systems (some of which serve Indian lands) and the rate for the other non-Indian agricultural users is \$27.00 per acre foot which also increases annually. The Tribes have incurred no debt for constructing distribution systems and, therefore, should not be entitled to the \$17.00 per acre foot rate. One possibility would be for the Tribes to pay the \$27.00 per acre foot rate with the United States being responsible to pay the incremental difference of the rates established by the CAWCD.

4. Sierra Club/American Rivers

The testimony of the Sierra Club representative and, to a lesser extent the American Rivers' representative, was particularly troublesome. The Sierra Club statement suggests that the Arizona agricultural sector "provides less than 3% of the states economic base". This statement is erroneous and ignores the fact that between 1988 and 1990 farming, ranching and associated agribusiness accounted for nearly 10% of the State's economic activity according to a recent study published jointly by the University of Arizona and Arizona State University¹.

The Sierra Club testimony also suggested that CAP water should not be made affordable to non-Indian agricultural users and that any resulting reliance on groundwater should be curbed by raising the groundwater pump tax and decreasing agricultural use in general. This is a poorly disguised effort to terminate irrigated agriculture in much of central Arizona and, in so doing, deny meaningful economic opportunity to a large portion of rural Arizona. Of course, these attacks on rural

¹ Agriculture in the Arizona Economy, by Julie P. Leones and Neilson C. Konklin, March, 1993.

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economic development are a common theme running throughout the political agenda of the national environmental movement.

The Districts also disagree with the recommendation of American Rivers that all users of CAP water should pay into a Watershed Conservation Fund. In general, CAP use in itself mitigates negative environmental consequences since it is often used in place of other sources of water which may or may not have some form of negative environmental consequence. Mere use of CAP water in lieu of groundwater should not trigger environmental related surcharges. Any environmental fund should be a statewide responsibility and CAP users should not bear the burden of such a fund.

The concept of the environmental groups to take water away from Arizona agriculture and let the land go back to desert so that it can be used by huge Nevada gambling casinos with their fountains and golf courses has a built-in conceptual flaw which is unexplainable.

5. Central Arizona Water Conservation District

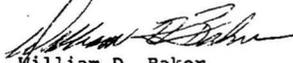
For the most part the Districts are entirely in agreement with the statements made in the CAWCD testimony. The CAWCD restructuring and water pricing plan provides a substantial benefit to these Districts and gives the Districts a meaningful opportunity to restructure their remaining financial obligations. However, the Districts are concerned about the suggestion that their "waiver" of their long term CAP agricultural water rights will allow for the immediate reallocation of such water to Indian, M&I or even environmental uses. As a legal matter, such a reallocation would seem to require a termination of the water service subcontracts rather than a mutual waiver of certain rights between two parties under those contracts. The Districts recognize that the waiver prohibits them from exercising their long term agricultural water rights and M&I conversion rights as long as CAWCD continues to waive its right to collect full OM&R charges against the Districts and continues to provide affordable excess water to the Districts. As pointed out in the CAWCD written testimony, their plan provides for an average non-Indian agricultural CAP water delivery of 240,000 acre feet per year over a fifty year period so the Districts anticipate the availability of such water for a long period of time and not just for the

The Honorable George Miller
December 28, 1993
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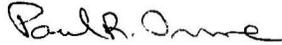
ten years under the existing excess water delivery contracts. The Districts appreciate the efforts of CAWCD to come forward with a reasonable and significant restructuring plan that benefits all users of CAP water, in particular, the State of Arizona in general.

Thank you for the opportunity to provide these supplemental comments.

Very truly yours,



William D. Baker
For the Firm



Paul R. Orme
For the Firm

PRO:WDB:smh
cc: O.L. "Van" Tenney
Jim Sweeney
Roger Shirley
Rita Pearson
Tom Clark



United States Department of the Interior

BUREAU OF RECLAMATION
WASHINGTON, D.C. 20240

IN REPLY
REFER TO:
W-1500

DEC 8 1993

The Arizona Republic
Letters to the Editor
P.O. Box 1950
Phoenix AZ 85001

Gentlemen:

I appreciate the coverage of the Central Arizona Project by the Arizona Republic over the last few months, but would like to set the record straight regarding the December 7, 1993, page one article entitled "Plan to pay for CAP rejected." The article's opening sentence said, "The federal government has rejected a financial-restructuring plan for the Central Arizona Project canal, questioning why farmers' water prices should be subsidized by taxpayers." To the contrary, the Federal Government has not rejected the plan put forward by the Central Arizona Water Conservation District (CAWCD). Bureau of Reclamation Commissioner Dan Beard's December 3, 1993, letter to CAWCD Board Chairman Sam Goddard makes it clear that the Federal Government has not rejected the plan, but rather that Federal approval is necessary to put the plan into effect.

The Commissioner goes on to inform CAWCD of our desire to begin negotiating to expand the plan to address the remaining financial issues of Federal concern. Specifically, those remaining issues include: 1. Payment of operations and maintenance costs by Federal users of CAP water; 2. Increasing the repayment ceiling contained in CAWCD's contract, to allow for the timely completion of the project; 3. Repayment of Federal investment in CAP irrigation distribution systems; and, 4. Utilization of additional CAP power revenues.

In short, we are interested in ensuring that the Federal investment in CAP is repaid, without further burdening the Federal taxpayer with additional costs.

Thanks for the opportunity to set the record straight.

Sincerely,

Ed Osann
Director of Policy and External Affairs
Bureau of Reclamation

STATE EDITION THE ARIZONA REPUBLIC

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Saturday, December 11, 1993

Phoenix, Arizona

104th year, No. 207

CAP cost may grow \$1 billion, U.S. says

Arizona role faulted

By Steve Yozwiak
The Arizona Republic

Arizona and federal taxpayers could pay an additional \$1 billion for the Central Arizona Project Canal, congressional auditors testified in Phoenix on Friday.

That grim financial news accompanied warnings from federal officials that more state cooperation — and financial participation — is needed to finish the project.

At the same time, state officials are scrambling to secure customers for the Colorado River aqueduct, which brings less than half of its potential capacity to central and southern Arizona.

The possible new costs cited by the General Accounting Office during a subcommittee hearing of the U.S. House Committee on Natural Resources include:

- Up to \$585 million to settle Indian water-rights disputes and provide environmental enhancements.

- As much as \$157 million to cover loans if irrigation districts go bankrupt.

- Up to \$400 million in contract disputes with the Central Arizona Water Conservation District, the state agency that runs the CAP.

In addition, if Congress fails to authorize higher spending ceilings for the CAP, U.S. Bureau of Reclamation officials testified they might soon have to "curtail" CAP

— See CAP page A15

“
I've seen this all before. This is a recipe for failure. I'm sure a lot of people were playing the trumpet before the Lusitania went down.”

REP. GEORGE MILLER
CALIFORNIA DEMOCRAT,
WARNING THAT ARIZONA
COULD BE HURT UNLESS
THE U.S. GOVERNMENT
GETS MORE
COOPERATION

CAP cost may rise by \$1 billion

— CAP from page A1

construction.

Among the CAP-related projects still to be completed are: water-storage facilities for Tucson, expansion of Roosevelt Dam, replacement of CAP Canal siphons under major rivers, and scrubbers to reduce air pollution in the Grand Canyon from the Navajo Generating Station, a coal-fired electrical plant near Page.

State officials were warned by the committee's chairman, Rep. George Miller, D-Calif., that Congress will be reluctant to approve additional spending for the CAP unless the federal government gets more cooperation from the state.

"This is a big chunk of dough," Miller told about 200 people during a five-hour hearing at the Phoenix Civic Plaza. "I think we should continue to see this as a joint (federal-state) venture."

But only minutes later, former Gov. Sam Goddard, chairman of the CAP district, walked out of the hearing and into a hallway, where he signed contracts with three irrigation districts, allowing them to receive CAP water for as little as \$17 an acre-foot.

An acre-foot is enough water for an urban family of five for a year.

CAP district officials plan to sign a total of 10 such contracts with irrigation districts by the end of the month. Goddard maintained that they are only side agreements between the CAP district and the irrigation districts, and do not need the approval of the federal government.

But Bureau of Reclamation officials have maintained that they also must approve the contracts. Miller said any refinancing of the CAP should be presented to the federal government as a comprehensive package.

After learning of Goddard's actions, Miller told reporters that the CAP district's reluctance to involve the federal government could only hurt the state in the long run.

"I've seen this all before," he said. "This is a recipe for failure. I'm sure a lot of people were playing the trumpet before the Lusitania went down."

Miller said Congress in the future will not tolerate the CAP district returning for bailouts.

Goddard insisted during testimony that the CAP district is solvent and will be able to pay its bills.

However, even the amount the state owes the federal government is in dispute. District officials maintain they owe the federal government \$1.8 billion, while federal officials now say the state owes the federal government \$2.3 billion as its share of the \$4.7 billion project.

Goddard said evidence of the CAP district's solvency is the fact that it already has made the first of 50 annual payments to repay the federal government, and the district has more than \$160 million in reserve funds.

However, congressional auditors said the district's revenues from the sale of water and electrical power — the district owns a quarter of the Navajo Generating Station — "will not provide sufficient funding for the district to meet its federal repayment obligation." The GAO said district reserves could be severely depleted by the end of this decade.

In contrast to the defiance shown by CAP district officials, advisers to Gov. Fife Symington held out olive branches to federal officials, presenting plans to have the Legislature approve several CAP-related moves, including:

- Additional CAP-district taxing authority. The plan calls for a property tax of 4 cents per \$100 of assessed valuation currently levied in Maricopa and Pima counties for groundwater recharge to be extended indefinitely beyond 1994. The plan would add the tax to Pinal County and allow the CAP district to use it for any obligation.

- Establishment of a state Environmental Trust Fund that would pay for restoration and expansion of wetlands, both for wildlife habitat and recreation. Up to \$8 million annually could be raised from a surtax on water banking, in which California or Nevada would pay Arizona so those states could use some of Arizona's Colorado River water in emergencies.

- Establishment of a state office to help facilitate settlement of Indian water-rights claims.

Rita Pearson, director of the state Department of Water Resources, and Mark De Michele, co-chairman of the governor's CAP Advisory Committee, both said they are hopeful of legislative approval.

De Michele, who also heads Arizona Public Service Co., said the CAP district would not necessarily have to levy the tax, but it would be available in the future if needed.

There are signs the CAP district is willing eventually to compromise with state and federal officials.

Goddard said the district is supportive of a state Environmental Trust Fund, although the district and state officials have opposed Bureau of Reclamation plans to siphon some of the proceeds from a Scottsdale-Payson CAP water sale to create such a trust. A meeting about how to establish such a fund is scheduled Dec. 21

— See U.S., page A16

U.S. may need \$1 billion more to finish CAP

— U.S. from page A15

between the CAP district and Pearson's state water agency.

Goddard also said the CAP district, after previously saying that it does not need more taxing authority, is likely to back an extension and expansion of the 4-cent tax.

"We'll probably go along with them," Goddard said of the legislative proposals. "That's what we need as options (for the future)."

And, in an interview in Washington before the Friday hearing, Interior Secretary Bruce Babbitt also hinted that the federal government is willing to compromise on CAP issues.

The former Arizona governor said he believes the CAP district should be given broad leeway in structuring its repayment.

"We're sort of the mortgage holder. And I think the role of the mortgage holder is to say, 'Look, as long as the check is in the mail every month and you're complying with the general provisions of federal law, we're not going to show up every week to tell you how to mow the lawn.'"

Babbitt said such issues as a water-price break for farmers are "a matter of state policy."

"As long as we're complying with environmental laws and all the other stuff, how you arrange the internal economics of the project is not principally a federal concern," he said.

Contributing to this article was Jeff Barker of *The Arizona Republic*.

AP NEWSWIRE -- December 12, 1993

Long Excluded, Environmentalists Win Role in Water Project

An AP Analysis

By GEORGE GARTIES
Associated Press Writer

PHOENIX (AP) Environmentalists have come in from the cold to help set western water policy, and they will have a say in reorganizing the Central Arizona Project canal.

Anyone in Arizona who hadn't realized that when President Clinton made environmentalist and former Arizona Gov. Bruce Babbitt his interior secretary probably got the message last week.

When a Bureau of Reclamation official arrived to warn Arizonans they needed federal approval to release struggling farmers from their obligation to buy CAP water, that official was Ed Osann, formerly of the National Wildlife Federation.

Osann's boss, Reclamation Commissioner Dan Beard, comes from the staff of Rep. George Miller, D-Calif., who forced reformulation of water projects in California and Utah to emphasize the environment.

And when Miller, whose Natural Resources Committee has life-and-death say over the \$4.7 billion cross-state canal, came to investigate the project's problems Friday, he saved his kindest comments for those who would direct some CAP water to restore dried-up streambed habitats.

"I think the light is dawning," said Gail Peters, who heads the Arizona branch of the environmental group American Rivers. "I think the water community in Arizona is beginning to recognize that the state does have an obligation not only to support agriculture but also to support a healthy environment and healthy river systems."

The 336-mile aqueduct from the Colorado River to Tucson was conceived when environmentalists were largely considered a fringe element. It was planned and built under the direction of traditional western water interests: farmers, developers, business-oriented elected officials.

But something inconceivable has happened. The project stands ready to deliver 1.5 million acre-feet of water to desert farms and cities enough to supply 7.5 million people and is finding few takers.

Environmental groups led by American Rivers want to set aside up to 10 percent of the CAP's water to restore habitat. They want to finance the restoration with a surcharge on CAP water that's "banked" underground in Arizona for sale to California and Nevada.

At an oversight hearing here, Miller praised the advisory group that came up with the plan, saying it "broke through a significant threshold" in recognizing the significance of the environment to the CAP.

Though the plan would boost federal taxpayers' bill for the CAP an estimated \$150 million, Reclamation's Osann said that would be

acceptable "If we embarked on that course with our eyes open, knowing that a certain amount of environmental benefit was worth a certain amount of money."

The plan almost never saw the light of day.

It was first floated before Gov. Fife Symington's blue-ribbon panel on the CAP. But when he named the panel a year ago, Symington didn't appoint any environmentalists.

Only after testing the political waters in Washington and getting an unmistakable message from Miller did Symington add four environmentalists to the 33-member panel. Co-chairman Mark DeMichele, chairman of Arizona Public Service, acknowledged the late addition to Miller at Friday's hearing.

The environmental water allotment was rejected by the advisory group the first time it came up for a vote. It was resurrected only after leaders warned that some environmental element would be necessary to sell the CAP refinancing in Washington.

The Central Arizona Water Conservation District, the independent government body that must pay for and run the canal, has yet to include the idea in its plans. Sam Goddard, the former Arizona governor who heads the elected CAWCD board, suggested in testimony before Miller that the board might dedicate some water to the environment.

But in an interview earlier in the week, he sounded less than pleased to find environmentalists' hands on the spigot of federal funds.

Reacting to comments by Reclamation's Osann, Goddard said: "He was the head of one of the ecological groups in Washington. They're accustomed to making demands."

Editors: George Garties is the AP's news editor for Arizona.

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December 13, 1993

How GAO Analyzes Central Arizona Project Costs

By The Associated Press

Breakdown of a General Accounting Office analysis of how the federal share of the cost of the Central Arizona Project could increase by \$1.1 billion:

\$400 million from contract disputes between the Central Arizona Water Conservation District, which runs the canal, and the Bureau of Reclamation, which built it. CAWCD contends the ceiling on Arizona's share is \$1.8 billion while Reclamation says it is \$2 billion. Also in dispute is \$200 million in future construction costs that Reclamation says is the responsibility of CAWCD.

\$435 million in construction costs associated with 200,000 acre-feet of water per year that the federal government has reserved to cover Indian water-rights claims. The federal government assumes such costs as the trustee for Indian tribes.

\$50 million to \$150 million in construction costs associated with setting aside up to 150,000 acre-feet per year that may be used for fish and wildlife enhancement. As with Indian water, the federal government assumes the construction costs associated with environmental enhancement.

\$157 million in no-interest federal loans to farmers that the GAO says could go into default. Farm irrigation districts borrowed \$200 million from the federal government, plus tens of millions more on the bond market, to build distribution systems to bring water from the main CAP canal to their fields.

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December 11, 1993

Auditors: Taxpayers Could Pay \$1.1 Billion More for Canal

By GEORGE GARTIES
Associated Press Writer

PHOENIX (AP) An auditors' warning that the Central Arizona Project may cost federal taxpayers \$1.1 billion more than planned could prompt Congress to force changes in the cross-state canal, a key congressman says.

The atmosphere in Washington is distinctly chilly when it comes to big spending and big water projects, says U.S. Rep. George Miller, D-Calif., who heads the House Natural Resources Committee.

If Congress is to put up more money for the CAP, it will demand more say in such matters as proposed price breaks for farmers and setting aside water for the environment, he said.

"If you see the battles that go on in Congress now ... a billion dollars is real money," Miller said here Friday. "We cannot expect that the taxpayer simply wanders off onto the horizon while these things are renegotiated."

The cost estimate was presented by the General Accounting Office at a hearing here of the Natural Resources Committee's subcommittee on oversight and investigations.

The total price of the 336-mile canal from the Colorado River to a point south of Tucson previously had been put at \$4 billion.

The GAO said that likely would climb to \$4.7 billion by the time the project is completed in 1999. Arizona water users and taxpayers must repay about \$2 billion of that over 50 years beginning in 1994.

The payments come from the Central Arizona Water Conservation District, run by an independently elected board and financed by property taxes and water and power sales.

The GAO said several factors could boost the federal share by \$1.1 billion.

One factor is a \$400 million contract dispute between the CAWCD and the U.S. Bureau of Reclamation, which built the canal.

Another is the GAO's prediction that farm irrigation districts could default on \$157 million in no-interest federal loans taken

out to pay for ditches to bring water from the main CAP canal to their farms.

Finally, more water is being allocated to Indian water-rights settlements and the environment than planned, and the federal government assumes construction costs connected with such water allocations. That reallocation could add \$585 million to the federal share, the GAO said.

Sitting with Miller were all the members of Arizona's House delegation except Republican Jim Kolbe.

Sam Goddard, the former Arizona governor who heads the CAWCD board, told Miller the CAWCD is prepared to repay the government, has \$160 million in reserves, and already has made the 1994 payment of \$30.6 million.

Goddard insisted the CAWCD could work out financial problems brought by the collapse of cotton prices that have left farmers unable to pay rising prices for CAP water. And he called the GAO report unfairly pessimistic about the district's ability to repay the federal government.

Arizona water interests fear going before Miller's committee to seek more money or authority to reorganize the project because of his reputation as a foe of water projects. He has orchestrated changes in projects in California and Utah to put more emphasis on restoring the environment.

Farmers, CAWCD managers and officeholders frequently worry publicly that going to the committee could open the door to reallocation of Colorado River water, giving some of Arizona's share to Nevada or to Miller's home state of California.

Miller took pains Friday to deny he planned a water grab.

"That's Chinatown," he said, referring to the movie about water wars in Los Angeles in the 1920s. "That's not American government in 1993."

In an interview from Washington before the hearing, Interior Secretary Bruce Babbitt told The Arizona Republic that he felt the district should be given broad leeway in restructuring and that such facets as a price break for farmers are "a matter of state policy."

"We're sort of the mortgage holder, and I think the role of the mortgage holder is to say, 'Look, as long as the check is in the mail every month and you're complying with the general provisions of federal law, we're not going to show up every week to tell you how to mow the lawn,'" the former Arizona governor said.



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