

Appendix N

January 27, 2006, Phoenix, Arizona Tribal Consultation Meeting Documents

N.1 Request to Initiate Consultation



United States Department of the Interior

BUREAU OF RECLAMATION

Lower Colorado Regional Office

P.O. Box 61470

Boulder City, NV 89006-1470



IN REPLY REFER TO:
BCOO-1000
ENV-6.00

DEC 23 2005

Honorable Raphael Bear
President, Ft. McDowell Yavapai Nation
P.O. Box 17779
Fountain Hills, AZ 85269

Subject: Request to Initiate Consultation on the Development of Lower Colorado River Basin
(Lower Basin) Shortage Guidelines and Coordinated Management Strategies

Dear President Bear:

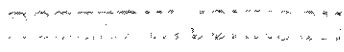
The Secretary of the Department of the Interior has recently directed the Bureau of Reclamation to develop Lower Basin shortage guidelines and coordinated management strategies for Lake Powell and Lake Mead under low reservoir conditions. Reclamation, in accordance with National Environmental Policy Act (NEPA) and Council on Environmental Quality regulations, has begun to prepare an Environmental Impact Statement (EIS) to address the proposed guidelines and strategies. A notice was published in the Federal Register on September 30, 2005, that announced the start of the scoping process and the intent to prepare an EIS (70 Federal Register 57322).

On behalf of the Department, we would like to initiate government-to-government consultation with the Ft. McDowell Yavapai Nation, in concert with the initiation of our NEPA process for this proposed action, to identify and consider potential impacts to any tribal trust resources as a result of the proposed action.

Mr. Rick Gold, Regional Director, Upper Colorado Region, and I respectfully request an opportunity to consult with you on these planned actions and discuss your interest and involvement in the NEPA process for this proposed action. To that end, we have arranged a meeting at Two Arizona Center, 400 North 5th Street, 12th Floor Conference Room A & B in Phoenix, Arizona, on January 27, 2006, from 10:00 a.m. to 12:00 noon.

Our staff will call your office during the next few weeks regarding this request. You may call Ms. Nan Yoder at 702-293-8495 or contact her by email at nyoder@lc.usbr.gov to discuss the consultation process or to confirm your availability for the meeting.

Sincerely,


Robert W. Johnson
Regional Director

Identical Letter Sent To:

Continued on next page.

Identical Letter Sent To:

Honorable Terry O. Enos
 Chairperson, Ak-Chin Indian Community
 42507 West Peters and Nall Road
 Maricopa, AZ 85239-3940

Honorable Richard P. Narcia
 Governor, Gila River Indian Community
 P.O. Box 97
 Sacaton, AZ 85247

Honorable Robert Valencia
 Chairman, Pascua Yaqui Tribe
 7474 South Camino de Oeste
 Tucson, AZ 85746

Honorable Joni M. Ramos
 President, Salt River Pima-Maricopa Indian Community
 10005 E. Osborn Rd.
 Scottsdale, AZ 85256

Honorable Kathleen Wesley-Kitcheyan
 Chairwoman, San Carlos Apache Indian Tribe
 P.O. Box "0"
 San Carlos, AZ 85550

Honorable Vivian Juan-Saunders
 Chairwoman, Tohono O'odham Nation
 P.O. Box 837
 Sells, AZ 85634-0837

Honorable Ivan Smith
 Chairman, Tonto Apache Tribal Council
 Tonto Apache Reservation No. 30
 Payson, AZ 85541

Honorable Jamie Fullmer
 Chairman, Yavapai-Apache Nation
 2400 W. Datsi Street
 Camp Verde, AZ 86322

bc: Mr. Bryan Bowker
 Acting Regional Director
 Bureau of Indian Affairs
 P.O. Box 10
 Phoenix, AZ 85001

LC-1000, LC-1100, BCOO-1000, BCOO-1003, PXAO-1000, NAOO-1100, UC-100,
 UC-105, UC-402, UC-438, UC-700, UC-720

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January 27, 2006, Phoenix, Arizona Tribal Consultation Meeting Documents

N.2 Sign-In Sheet (1)

January 27, 2006

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N.3 Sign-In Sheet (2)

January 27, 2006

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N.4 Sign-In Sheet (3)

January 27, 2006

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Appendix N

January 27, 2006, Phoenix, Arizona Tribal Consultation Meeting Documents

N.5 Transcript

DEVELOPMENT OF LOWER BASIN SHORTAGE GUIDELINES
AND COORDINATED MANAGEMENT STRATEGIES FOR LAKE POWELL
AND LAKE MEAD UNDER LOW RESERVOIR CONDITIONS

PUBLIC MEETING

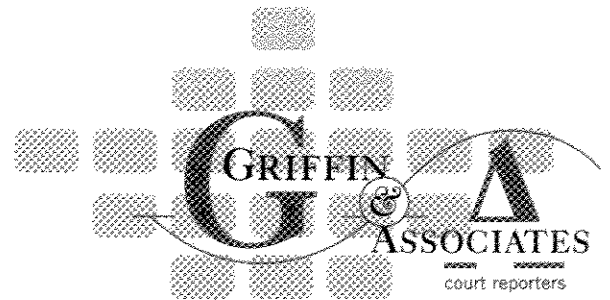
Phoenix, Arizona

January 27, 2006
10:00 a.m.

REPORTED BY:
DIANE DONOHO, RPR
Certified Reporter
Certificate No. 50691

PREPARED FOR:
BUREAU OF RECLAMATION

ORIGINAL



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1 A PUBLIC MEETING was taken at 10:00 a.m. on
2 Friday, January 27, 2006, at 400 North Fifth Street,
3 Conference Rooms A and B, Phoenix, Arizona, before Diane
4 Donoho, a Certified Reporter, Certificate No. 50691, in and
5 for the State of Arizona.

6
7 APPEARING:

8 Nan Yoder and Larry Walkoviak
9 U.S. Bureau of Reclamation
10 P.O. Box 61470
Boulder City, Nevada 89006-1470

1 MS. YODER: So that's all I have for my
2 presentation. And so we come back to those fundamental
3 questions of that's the federal action. That's what we're
4 planning to do, and we're here to talk to you about how
5 you'd like to engage in that process with us. Okay. And
6 since I wasn't done, I'll give you this really good piece of
7 news.

8 We're at 107 percent of average for the inflow.
9 That means we're normal this year. That's good, another
10 normal year. And I believe, when I was talking to people
11 from the Front Range, they said the snowpack was 120 percent
12 of average. I'm not sure if that's accurate because I've
13 seen here more like 110 if it's 120. That's all I have.

14 MR. WALKOVIK: Thank you. And let me also
15 acknowledge that several of the tribal entities had sent
16 letters to Reclamation either last summer in August when we
17 were doing what we were calling the public process or last
18 fall when we had a bit more formal request under kind of a
19 NEPA process. And I'm not sure if I have all the letters
20 with me. I saw letters from Fort Mojave tribe back in both
21 August and November. San Carlos Apache sent us a letter in
22 August; Tonto Apache in August as well. So I know we've
23 gotten written documents from all those entities. There may
24 be others. I just might not have grabbed everything out of
25 the files.

1 And so certainly the reason for bringing that up
2 is you don't have to repeat it if you've already told us,
3 and you don't have to repeat all that. We've got that
4 information in hand, and certainly we'll make full use of
5 that as we go through our process. But certainly if you
6 have new thoughts, new ideas, new questions, whatever,
7 please don't hesitate, as Nan said, to get a hold of us
8 either formally in writing, call us and set up any visits,
9 anything of that nature.

10 MS. INTERPRETER: Robin Interpreter, for several
11 tribes. As you did mention, we submitted comments on behalf
12 of San Carlos, Apache, Yavapai, in three separate letters
13 each for the different tribes. And we submitted those on
14 August 31 pursuant to the first federal registered notice
15 that came out. We were requested to be the mailing list for
16 any further communications recording this. We were not put
17 on the mailing list. So please put us on the mailing list. 1
18 Read the letters. We always ask, and we almost never get on
19 the mailing list. So we would really appreciate it, as
20 special counsel for this matter, we would be communicated
21 directly on this as well.

22 Number two is the chairperson of Pasqua-Yaqui
23 tribe, her name is a Herminia Frias, so you should change 2
24 your address to the chairwoman.

25 Couple of other comments just as a quick review,

1 on our August 31 letter is -- well, another matter. I
2 followed, you know, a lot of the discussions that was going
3 on between the dates that they've been having all these
4 meetings. And what my understanding was the secretary said,
5 "Please, States, get together, go out and work on this."
6 Where were the tribes here? We have a direct relationship
7 with Bureau of Reclamation. Why can't the secretary say, 3
8 you know, States and tribes work together on this. But I've
9 gotten this impression over the course of the last year and
10 a half that the states are out there coming up with a plan,
11 they're going to present to the secretary and she's just
12 going to say, okay, you know, finally we've got these big
13 players together and they've agreed on a plan. So therefore
14 that's what I'm going to do.

15 I've been very uncomfortable that none of the
16 tribes have been really consulted until now. I do
17 understand the states are doing their own thing too and
18 inviting you. But the secretary's communication to the big
19 players, i.e., the states that she perceives is, without
20 even talking with the tribes about this in the very
21 beginning, is a little frustrating.

22 One of the things I also noticed the other day, I
23 knew she probably wasn't getting notices, every year the
24 secretary comes out with her annual operating plan for the
25 Colorado River Reservoir. Her mailing list is to all the

1 states. It's never to any of the tribes who are affected by
2 how she operates the Colorado River. So I think the tribes,
3 those tribes that are affected by the operations of the
4 Colorado River should be noticed when she publishes this, 4
5 that it's available. So that's another matter that's been
6 of concern to me.

7 In terms of practical issues here, the tribes
8 understand the secretary has that discretion to adopt the
9 shortage guidelines. We appreciate that you're consulting
10 with us at this point in time at least and beginning that
11 process although it just feels like it's kind of far down
12 the road already. The shortage impact to the tribes from my
13 four tribes are, you know, with the regard to the CAP
14 deliveries. Those four tribes at CAP Indian priority water
15 which is a decent priority up there with M&I, and I would
16 suspect that with regard to that water that the State of
17 Arizona would kind of be on the same page with the tribes
18 with regard to it because, if they get shortages on M&I,
19 it's going to be pretty bad.

20 But with regard to the Arizona Water Settlements
21 Act Water that's nonIndian ag water that's allocated for
22 Indian water settlement in the future. This really impacts
23 that water. It's about 67,000-acre feet of nonIndian ag
24 water in the CAP. That's got the lowest priority in CAP.
25 If you're going to have a shortage, that's the first to go.

1 That's where the State of Arizona and the tribes in the
2 State, if they were to accept any of that water in an Indian
3 settlement, would be completely -- probably would come down
4 in different places on how shortages might be borne.

5 Also this -- the adoption of this management
6 strategy, the secretary needs to pay attention and say look, 5
7 how is this going to impact that 67,000-acre feet of water
8 in terms of offering it to a tribe in an Indian water
9 settlement? Is it going to be very valuable to a tribe at
10 that point. And the Gila River Indian Community also has
11 this concern. So that's going to be of real concern because
12 it's not great water anymore. It's useless water. It's not
13 good enough to provide for permanent tribal home life in the
14 bottom of the rung. So that's how the shortage sharing
15 guidelines impacts us.

16 Just a quick note on the surplus guideline, they
17 impact us as well. It's not that easy because, when you
18 have a surplus, you're providing water to California, who's
19 completely water-thirsty, and when you do that, you might be 6
20 lowering the elevation of the water in the reservoirs at
21 that point in time. So in the future, if you had more
22 shortages in the future, then there really isn't as much
23 water. So those surplus guidelines also do impact the
24 tribes.

25 So those are just a few of my comments at this

1 point in time, and we just haven't been able to be involved
2 it doesn't seem. So you know, the states are getting
3 technical assistance. Is there something that the secretary
4 would like to do with the tribes to put them into the --
5 that process with the states, or is there something that the
6 secretary can do to work with the tribes on developing ideas
7 or evaluating ideas that come across the table because these
8 issues really are important to the tribes. That's what I
9 have to say.

10 MR. WALKOVIK: Thank you.

11 MS. YODER: There's a few things there, and I
12 just want to touch on one or two and the concept that what
13 the states are doing is -- I was focused on it -- is
14 certainly not the secretary's thought although it may have
15 come across different than that the states go negotiate
16 something and that becomes the action. It will be
17 considered along with other alternatives that would maximize
18 the resources, the value. And so it is not the only thing
19 that we would look at certainly under our evaluation.

20 And I'm sorry that we came across like that. It
21 seemed to be the impact that it was going Robin.

22 MS. INTERPRETER: I think it's the practical
23 effect. It's practically what usually happens. Politically
24 that's what happened and so that we haven't been involved
25 from the start could lead to that conclusion.

1 MS. YODER: Certainly we are here today to talk
2 to you about how you would like to be involved. So when or
3 how or when we started that, I'm going to have that -- let
4 that go. But we are here, and we do want to engage with you
5 on this topic. And so there is a desire to do that, and
6 we'd like your feedback on how to do that. Possibly would
7 you like to do it say in a group? Individually? How would
8 you like to proceed? We want to give you avenues to have
9 input into the process into the development of alternatives.
10 That's why we're here before we resolve our issues and how
11 they affect everything, everyone, and also that we haven't
12 just rubber-stamped someone's idea that they're presenting
13 to us. So that is what we're intending to do here today.

14 The contacts, the mailing list, we are currently
15 developing that, and we actually do have your name on there
16 because I was seeing it yesterday, looking for everyone to
17 see, make sure we had information. And you will get that
18 direct information both as a result of the NEPA process that
19 goes forward, the public involvement, and also because of
20 your unique relationship that leads to consultation, you
21 would get that in those forums.

22 The annual operating plan, yes, there's a cover
23 letter that went out. There is also a mass mailing that we
24 do as well, posted on our website. So you should be seeing
25 that document shortly. It was not finalized until late

1 November, and so it hasn't really been out there that long.
2 But we will get that out to everyone. Certainly if anyone
3 here wants it today, we'll make certain you get ahold of it.

4 At the very end of your presentation handout
5 there's a web site. It's our operations page for the lower
6 Colorado River, and the annual operating plan is posted on
7 that website. If you don't like electronics, tell us.
8 We'll mail it to you. Okay. I did want to touch on that
9 one piece about the states. I'm sure I didn't answer all
10 your comments but try to pick out a few there.

11 MR. WALKOVIK: Is there a way that, as a tribal
12 group, we could meet to work with Reclamation with technical
13 assistance on some of the alternatives, have those
14 alternatives set here, provide it to us, and we can work
15 through those kinds of alternatives. We have no -- we don't
16 have the technical assistance that we need. We, you know,
17 we don't know what all the alternatives are that are out
18 there. We don't know what to say about it when we don't
19 have all the information. So --

20 MS. YODER: The simple answer to that is yes and,
21 we'd like to know how you'd like to approach it. When the
22 states settle, they struggled a bit too until they can
23 figure out what assistance they wanted from us in their
24 forum. And certainly we can get and offer to you some
25 information what they've done. And we can sit and try to

1 help you through a process too and help you understand what
2 alternatives that you would like to --

3 MR. WALKOVIK: Nan, let me make say a little bit
4 about the modeling, and please help me fill in because you
5 know the details a lot better than I do. Maybe this will
6 kind of help in your request on the technical assistance,
7 and yes, we will certainly do what we could to try to fill
8 in the gaps for you. If we need to do a separate meeting or
9 whatever, let us know.

10 But the modeling that's typically done and is
11 being done is fairly what I would call broadscale. We don't
12 identify specific water rights holders and things of that
13 nature in this modeling. It's typically looking at Powell
14 and Mead and sort of a large, you know, like a 30,000 feet
15 elevation, if you will. And so you're looking at the
16 likelihood of a shortage being 4- or 500,000-acre feet for
17 the whole system. And then you have to figure out how do
18 you distribute that shortage.

19 So it's not at a microlevel where you can
20 identify 10- or 20,000-acre feet to some particular water
21 rights holder or user. So that's kind of the level of the
22 modeling, and it's not down at that real small detail level.
23 And so we'll be happy to share and work with you on that. I
24 just want to make sure there weren't any expectations that
25 there was sort of a detailed water accounting-type model

1 that you can identify specific amounts and track that
2 through the systems. That not the level of the modeling.
3 We're not doing that. Is that a fair summary, Nan?

4 MS. YODER: That's correct. What we're looking
5 at is the large scale operations of the two reserves, how
6 they work together, and how we deliver both quantities of
7 water out of their systems. So we're looking at the
8 likelihood or the probability of certain elevations being
9 achieved or not and what that would mean to downstream
10 deliveries.

11 MR. CHANDLER: Randy Chandler with the Bureau of
12 Reclamation. As you know, CAP reserves once, they've
13 identified this bigger shortage for CAP, then it gets spread
14 by shortage criteria. So you got to kind of take their
15 shortage that they're starting with on those and break it
16 down and see if it impacts individually to users. But
17 that's not part of the reasonable process in developing the
18 guidelines. They're looking at the block shortages to
19 Arizona and others areas. It certainly can be broken down,
20 and most of us here probably are familiar with how that
21 breakdown occurs.

22 MS. INTERPRETER: Well, I think the tribes need
23 to have this breakdown for their own purposes to take a look
24 at, you know, how it's going to impact and you know -- I
25 mean I don't think any of us here want to have, you know,

1 extreme problems on Indian operation of the reservoir. We
2 want it to be operated fairly and systematically. We just
3 want to make sure our interests are protected just like the
4 states are. You know we understand.

5 MR. CODER: My name is Chris Hogan, and I would
6 just like to reiterate with Robin that particularly in
7 respect to the Yavapai, Apache people that we're always
8 concerned that these issues don't become completely
9 rhetorical. And we have concerns that it's unspoken
10 policy -- the current administration when President Bush was
11 campaigning in 1999, he -- somebody asked about water rights
12 and association with the casino and the water. That's not
13 even the federal purview. The Indians are the state's
14 problem or concern. Our concern is that massive use of
15 water by the states will trump concerns of the little
16 people, namely smaller tribes. And you know, you have
17 Indian cultures that have lived here for a millennium on a
18 frugal water budget and that also the people moving here
19 from Pennsylvania and Ohio and Illinois, the needs of those
20 people are shower requirements and coffee requirements and
21 backyard cactus gardens are also going to be trumped.
22 Indian people who have always been a traditionally
23 completely downstream in the allocation of resources. You
24 guys are looking at the people, the big picture in your
25 concern, not if the tribal people necessarily get those

1 little amounts of water. But sometimes when you look at
2 things on the big scale, Indian people and their resources 9
3 requirements, as small as they might be, just get completely
4 lost.

5 That's why we would prefer, regardless of what
6 happens in the future with water, that tribal concerns are
7 not just thrown off by having meetings, that there's
8 somebody there. We talked with the tribal counselor quite a
9 bit and our lawyers and two or three weeks ago, and it boils
10 down to this. This is very tribal, you know, mentality. We
11 want to make sure that 40 years from now the grandchildren
12 of the people currently there will turn on the faucet and
13 water comes out. That's really the only concern. That's
14 what it boils down to. I don't expect any big answers, but
15 I just wanted to have those comments on the record.

16 MS. YODER: And I would point out, as we pursue
17 this process, no one is intending to end the law of the
18 river, that big body of law guiding agriculture, trees,
19 obligations, reserved rights that everyone has in front of
20 them. That is their right. We're not meaning to do that.
21 And so I'm not sure that we assured you, but certainly this
22 process is not intended to overshadow that but rather to fit
23 into that.

24 MR. PARKER: I'm Gary Parker with Gila River
25 Indian Irrigation and Drainage District. As I understand

1 it, the modeling and everything is going to be considered in
2 terms of the criteria and the guidelines. What you
3 presented here today is primarily with Lake Powell and Lake
4 Mead. Is there any other underlying modeling that's going
5 to tie into the Gila system that we need to be aware of and
6 that we need to address as part of the guidelines because
7 it's a very different nature in terms of how we would look
8 at, you know, the process if we go further than the actual
9 Colorado.

10 MS. YODER: Certainly as we do the modeling and
11 on the larger scale and taken into consideration inflows. I
12 don't think that's actually answering your full question,
13 but we do take that into consideration. I don't believe we
14 take into consideration the storage in those systems. And
15 I'm not sure if I'm answering your question.

16 MR. CHANDLER: The integration of local supplies,
17 project supplies in context are kind of separate. So we're
18 really looking at shortage on the main stem of the river
19 which is considered CAP. It's interventions from how the
20 CAP diversions then tie to local supplies is really not part
21 of this process. We're really looking at when their
22 reservoirs are coming down and who implements shortage on
23 the river and how that integrates with it. At the same time
24 the Salt River Project or Gila System, then you're
25 double-impacted. Sometimes there's a relationship, and

1 sometimes there's not. Right now there's a shortage in the
2 lower basin, but in the upper basin supplies, Colorado is
3 above normal. So it's not always correlated one to one, but
4 we haven't, as part of this process, tried to correlate
5 those two.

6 MR. PARKER: That's what I wanted to make sure
7 that there are two separate issues.

8 MS. INTERPRETER: Noncorrelation is a good thing.

9 MR. CODER: Actually I do have a question. Maybe
10 it's something you guys don't want to talk about kind of
11 strategic things. We always have these averages. But my
12 degree's actually in science. So I understand the average
13 is actually you have peaks and lows for the time. The
14 average is whatever the average is. If you look at the
15 history of the last thousand years, we've had two, possibly
16 three generational droughts where the average is what is
17 today the low out of 25 out of say 30 years. Is there any
18 thinking about that strategy, as population and use grows 10
19 and potentially, you know, we might be in the tip of
20 long-term drought here and have peak years in the next 30.
21 Are there any contingency plans for that kind of thing, or
22 don't we even want to think about that kind of stuff?

23 MS. YODER: Well, the lovely thing about the
24 system right now is 60 million-acre storage. Now, it was
25 authorized and built under certain constraints. It's what

1 we have. If we had 50 years excess drought, we will have a
2 problem, yes. Could we have a plan for that or build?
3 Probably not. Are we looking at those types of events as
4 they happen in the past? Yes. We are trying to understand
5 the body of science that's out there right now and pulling
6 it forward. And as we can recognize it as valid into our
7 models, we're doing so.

8 Everyone always here's about tree ring studies.
9 That's the buzzword we usually hear it related to climate
10 variability. So yes, the reclamation is looking at that
11 area of study, and it's trying to actually pull into our
12 modeling as best we can as we move forward that state of the
13 art is at a certain place and moving along. We can't create
14 something that doesn't exist yet. As we have valuable
15 information, we will pull into the process and help it
16 inform us. And we're quite aware of those postulations
17 about some considerably longer droughts or what they
18 would -- what was normal back in 1980. There was X amount
19 of water available for a system might not have been true a
20 couple of hundred years ago. But we looking at those
21 factors.

22 MR. PARKER: And I don't bring it up to be
23 alarming. Simply to address the facts of the long-term
24 changes in the region.

25 MS. YODER: And those forums are out there, and

1 we are definitely paying attention to them.

2 MR. PALMQUIST: My name is Robert Palmquist. I'm
3 with the law firm of Strickland and Strickland in Tucson.
4 We're general counsel to the Ak-Chin Indian Community, and I
5 think chairman Carlisle, who is also here with me can
6 correct me if I'm wrong, but I think Ak-Chin shares some of
7 the concerns that Ms. Interpreter and the other speakers
8 have made about the participation of tribes in this process
9 and also the State process. We kind of found out through
10 the back door about some of the State meetings and have
11 attended several of them. Now I understand there's a
12 smaller group that has a couple days ago convened to put
13 together some final recommendations to the secretary. And
14 we welcome the opportunity to be here and be part of the
15 process. But as far as the noticing requirements and/or --
16 not requirements but as far as notice to the tribes and
17 participation of the tribes, I echo what Ms. interpreter
18 said about more tribal involvement being I think imperative.

19 Ak-Chin, of course, based its water entitlements
20 on its water settlement legislation which in fact has a
21 provision about the secretarial declaration of shortage and
22 what happens to the community's water entitlement once that
23 declaration is made. And we'll, of course, stand on that,
24 but we certainly want to be a part of larger tribal
25 discussions and especially those discussions with the

1 federal government with which the tribes have a trust
2 relationship.

11

3 MS. CARLYLE: You're correct on that. If notices
4 were not being sent out, I really don't know that. I was
5 currently the vice chairman until last week. So a lot of
6 these issues went to the chairman. So we haven't switched
7 offices. So we're kind of coordinating them but we were, as
8 Bob said, able to get to some of the State meetings which
9 was real interesting. And I want to say I like the idea
10 that at least notes are taken where in the past, not on this
11 issue, but other issues, they call a meeting, they call a
12 consultation, there's no -- there are no notes taken. So
13 it's basically we're just talking to ourselves with no
14 follow-up. And I appreciate that something is being written
15 down.

16 As for consultation with the tribes, this is just
17 a starting point. Then I think there are other ways of
18 bringing in tribal leaders, and it's what we call the direct
19 consultation where in a group setting, individual, it
20 depends on the tribe on how they want to conduct that, how
21 they want to define consultation. So I appreciate the
22 opportunity to be here, and I apologize for being late. I
23 went to the wrong address. I think I went to the building
24 where we had the State water meetings which is no longer
25 open either. But I got here. So again, I stated before,

1 water is such a precious resource in our area with all the
2 developments around us. All we have is our farming. We --
3 yes, we have a casino. We don't want to focus solely on the
4 casino because our farming operations are doing pretty good.
5 However, we have already spoken with federal officials as
6 well as county officials as to all these 100-year guaranteed
7 certificates, and there must be a dozen-plus different
8 developments surrounding our reservation.

9 So we just wanted to make sure, as with any
10 tribe, that it does not impact our farming or the water that
11 we have Senator McCain, and we point blank asked him once
12 about our water settlement. And he said I don't think --
13 what was his quote -- I don't think the Supreme Court would
14 hear that because of the statutory wording. I said, But the
15 way government's been running lately, I know. Could you
16 please put that writing somewhere. Lately I've been saying
17 "Can we get it in blood?" You know you may have a document
18 but the recent trend of the current administration is a lot
19 of loopholes are being found. So what we thought were 12
20 concrete documents that we were safe with, contracts,
21 agreements, what have you, is proven otherwise.

22 So we welcome the opportunity again, just like
23 any of the tribes, to be able to participate. Again I want
24 to express my appreciation of the notes being taken because
25 it's not happening in the other consultation meetings.

1 Thank you.

2 MS. YODER: Well, and I apologize that we started
3 before you could arrive. And I certainly do appreciate that
4 you took time out of your day to join us. Thank you.

5 I would point out for everyone that a copy of
6 that transcript will be available, and we can email it or
7 mail it to you. So this is not just a document for my
8 information for follow-up. It also is available to you as
9 documentation of the meeting. Okay.

10 MR. PARKER: One of things that I am wondering
11 about is in terms of the consultation and basically the law
12 of the river and everything else that's there, do we really
13 have much to discuss, you know, from the standpoint that
14 there are certainly indications that have already been made
15 to the states and the tribes unfortunately fall within those
16 allocations to the states. There aren't the independent
17 allocations. It's very, very limited what tribes have, if
18 any, in the lower basin. It's outside the state's
19 allocation. So I'm really wondering what kind of voice do
20 we have in the process.

13

21 MR. CHANDLER: I guess, Gary, I look at it a
22 couple different ways, depending upon the criteria. The
23 secretary adopts, you know, we can wait until shortages are
24 really drastic and CAP goes to zero. If that's the process,
25 Indian tribe that has an allocation, leases that water

1 supply. The way that we're looking at it in different
2 alternatives, as the reservoirs are coming down, we shortage
3 the smaller amounts and maybe the nonIndian ag supplies
4 enter an earlier shortage.

5 MR. WALKOVIK: So different ways in which we can
6 operate under the shortage criteria, that will determine how
7 deeply it goes to the CAP shortage. And that's really a
8 critical nature to the tribes' supplies.

9 Now, the State is probably going to protect, try
10 and protect their M&I supplies as much as they can. Where
11 they share priority that helps the tribe get protected as
12 well because you have that shared priority. So just being
13 aware of the different strategies and how often you can get
14 hit with shortage, you either take a lot of shortages all
15 the time or you wait and take a big shortage and take
16 blocks. So you need to be aware of that type of provision,
17 how it might impact the longevity of the water supply.

18 MS. INTERPRETER: Gila River Indian Community
19 original allocation had a 10 percent irrigation allocation
20 that would have been reduced as well. Kind of informative,
21 but not Indian ag. So that's the piece of that puzzle and
22 is a concern as well.

23 MR. JAMROG: I just wanted to state that what Nan
24 already mentioned today was one of the main points was to
25 find out how we wanted to continue consultation with the

1 tribes. And of course, Robin, you stated that, you know,
2 you definitely wanted the Fort Apache tribes.

3 MS. INTERPRETER: Three Apache, two Apache
4 tribes, one Yavapai --

5 MR. WALKOVIK: The tribes that you represent, if
6 you would want us to provide technical assistance to you and
7 then we heard Delia say that Ak-Chin perhaps would want to
8 consult tribal -- one tribal nation with a Bureau of
9 Reclamation. One of the things we would like to get out of
10 this is for logistics purposes to know how the tribes want
11 to operate so that we can respond well and whether groups
12 of, you know, three or five various individuals, shared
13 presentations, or discussions are necessary. So we would
14 really want to encourage you to tell us that through the
15 contacts that were presented. Or if you'd like, you can,
16 you know, talk to Debbie or Randy and get the information
17 who to contact.

18 MS. INTERPRETER: Well, I can suggest right now
19 perhaps, if any of the tribes are interested, we can have
20 more of these group meetings where Reclamation helps us
21 gather that information on certain alternatives that have
22 been developed by the different states or together or
23 anything Reclamation is thinking about, and we can really
24 kind of work on it through a technical perspective. At the
25 same time at the next meeting, if there was a need that a

14

1 tribe felt to break out and spend some alone time with
2 Reclamation, I think that would be appropriate as well.

3 So maybe you can accomplish some of the
4 generalized goals of a group of us. It's a little easier if
5 tribes say we really need to talk to you specifically alone,
6 then we can do that as well.

7 MS. CARLYLE: That has been a format used in the
8 past where you bring them in and bring tribes together and
9 then, if there's specific issues outside of what you just
10 mentioned about the general consensus, then you do that
11 again. I'm only one. You have in Arizona, what, you have
12 22 different tribes.

13 MS. INTERPRETER: Because I think the concerns
14 for the main stem Colorado River tribes may be different.

15 MR. JAMROG: We met with them last week in a
16 similar forum. My understanding what came out of that is
17 that one of the tribes has taken the lead to coordinate with
18 the group. And so -- and then of course, we can still offer
19 the same opportunity for individual tribes if they request
20 that. I don't know if that's something you want to do or
21 not. I'm not trying to influence that, but that's one way
22 they are, and we'll probably operate with them as a group
23 and then see a few tribes as a group. And then we also have
24 the additional concern what consultation resources impacts
25 would come down the line which may include other tribes as

1 well. But I hear you. So as far as for this sounds like
2 this is a good way to contact.

3 MS. INTERPRETER: Who in Reclamation does the
4 kind of technical processing, reviewing all the different
5 alternatives? Who is going to be responsible for that? Is
6 that kind of a person that we could have available to us at
7 these meetings?

15

8 MS. YODER: Well, that's me. I am one of that.
9 There's a team. Obviously, it's not a single individual.
10 Unfortunately Terry Fulp couldn't be here with us today.
11 He's the area manager here for the Boulder Canyon office.
12 That's where the operating plan is issued out of the --
13 under the signature of the secretary, and of course, the
14 oversight of the regional director. He was unable to be
15 here today, and I am his representative. And so it is that
16 office that will be doing the technical evaluations on the
17 modeling and also that will be coordinating with John's
18 office when we get into the other impacts of the
19 environmental resources, et cetera. So it is a team effort.

20 We are also undertaking this project in
21 coordination with the Upper Colorado Regional Office to
22 Randy Peterson, would be Terry Fulp's counterpart in that
23 region, and we'll do everything in coordination because we
24 are, of course, looking at Powell. And so that's within
25 their territory. And so we'll run this project in

1 cooperation with that region. So it's a team, and you can
2 always get to us through any of those contacts or
3 individually as well.

4 MR. WALKOVIK: Let me add also a little bit
5 about where we are in the process. Maybe expanding a little
6 bit on some of the stuff that Nan had in her slides. We
7 have had these couple of public processes back last summer
8 and then in the fall that several of you responded to. And
9 this study team that Nan talked about is really just getting
10 under way. And so we have gathered up all this public
11 input. We're still gathering this through these meetings
12 and others, and we will put together what we call a scoping
13 report which will summarize what we've heard from all the
14 different entities that have given us comments. And we've
15 still yet to formulate alternatives that we're going to take
16 forward into the EIS process.

17 We're in the process of starting to develop that
18 as we assess all the information we have. So my sense is I
19 needed to say that because I didn't want anybody to assume
20 that we already got X number of alternatives and we got them
21 nailed right down and we're just charging along. We're
22 still formulating all that based on the input that we
23 receive. And this year, this calendar year, will be all
24 about formulating those alternatives and then studying and
25 analyzing those alternatives and developing a draft EIS.

1 Our target date is late this calendar year.

2 MS. YODER: It's December.

3 MR. WALKOVIK: And then the end process, after
4 getting review and comments and so forth, is December 2007,
5 as Nan showed on the slides, to try to come to the end of
6 that process with a final document and a record of decision
7 on what the Secretary will decide. This is the right time
8 to be getting input. We're still early in that process,
9 formulating alternatives, and then analyzing them. And
10 there will continue to be interaction between us and whoever
11 is interested as we go through.

12 MS. INTERPRETER: I think it would be probably
13 most useful then in terms of, as the alternatives are being 16
14 developed at somewhere midway, before you get the draft A of
15 EIS and those alternatives set, we would like to meet, have
16 a little bit of time take a look at those things and talk a
17 little bit more about it before you put it in stone in the
18 EIS.

19 MR. CODER: This has nothing to do with water,
20 but it might be of interest to you Reclamation folks just
21 for your own knowledge. I'll give you a 90-second history
22 on how this thing started out.

23 During the wars of conquest in Arizona Territory,
24 Western Apache People were rounded up and taken to the
25 concentration camp at San Carlos, east of Phoenix. This

1 included Apache People from all over; the Verde Valley,
2 White Mountains, Payson, the Pinal, the country around
3 Flagstaff, from Cibecue through Payson and south wards to
4 Globe and the Superstitions. The net that was cast not only
5 caught up the various Athapaskan speaking Apache's, but also
6 the Yuman speaking Yavapai. The Yavapai were in no way
7 related linguistically or culturally to Apaches, but
8 nonetheless they were rounded up and taken to San Carlos
9 just the same. The government did not differentiate between
10 Apaches tribes much, and the nuance between separate tribal
11 groups was often overlooked within the greater focus of the
12 conquest.

13 Be that as it may, after a generation at San
14 Carlos the military system began to break down
15 institutionally as well as financially. As enforcement and
16 regimentation on the military reserves waned, the People
17 began to walk back home in small groups to the country their
18 Parents and Grandparents had been removed from during the
19 1870's. Some Apaches went to the country around Payson, and
20 some walked back to the Verde Valley. Some Yavapai families
21 went back to the country along the Hassayampa northwards to
22 Prescott and also into the Upper Verde. Another generation
23 passes by then.

24 In 1934 the federal government passed the Indian
25 Reorganization Act, which gave many groups the go ahead to

1 write a constitution and be recognized by the federal
2 government as a sovereign entity. This was what led to the
3 Yavapai Prescott Tribe being formed. It also led to the
4 formation of the modern Yavapai-Apache Nation, which was the
5 convenient amalgamation of Dilzhe'e Apaches and Yavapai
6 People from the Upper Verde east of Mingus Mountain into a
7 single political entity despite the two distinct cultural
8 origins of these two Peoples.

9 The Tonto Apache Tribe of Payson was not
10 enfranchised until 1972 by the federal government, and they
11 are derived from Apache families that left San Carlos around
12 1900. These are related to the same Apache families who
13 comprise the "Apache" in Yavapai-Apache Nation, but now they
14 are separated as a distinct political unit. Same
15 culture/same People/completely different government.

16 Fort McDowell is a Yavapai political entity
17 distinct from Prescott and Camp Verde in the same fashion as
18 is Payson. These are just examples of the cultural
19 consequences of conquest and the repercussions they result
20 in. For the people on the short end of that stick, in this
21 case Native Americans, the winners determine the political
22 future, resource allocation, and cultural geography
23 regardless of cultural context prior to the disruption.

24 So anyway, sometimes that's helpful to know that.

25 MR. WALKOVIK: Thank you.

1 MR. PARKER: I have one last one that's just on
2 your presentation. Can you read your email addresses.
3 They're in colors that some people can't see. I know
4 there's got to be a word.

5 MS. YODER: It literally is the word strategies,
6 S-T-R-A-T-E-G-I-E-S, strategies@lc.usbr.gov. And if you
7 rather correspond with the upper Colorado regions, just say
8 at UC, or you can send them to both of us which is
9 applicable as well.

10 MS. WILSON: We are at the Sif-Oidak District of
11 the Tohono O'Odham, but not directly involved with the
12 nation government activities. So my question to you is has
13 there been a comment submitted from the nation?

14 MS. YODER: I do not recall one. Ones that you
15 read are the ones I have from our record this past summer
16 and fall. So I do not see one from that. And you are most
17 welcome to submit one still.

18 MS. WILSON: We're the most northern part of the
19 main reservation, and we have been involved in, you know,
20 the district's level of water activities. And I guess we're
21 kind of getting involved, you know, kind of after the fact
22 kinds of thing. But I was wondering if it was possible if
23 we would get a copy of the June 2005 and September 2005
24 federal registers.

25 MS. YODER: Certainly. If we have your name and

17

1 mailing address, we'll mail those to you or email them to
2 you. Would you rather email?

3 MS. WILSON: Yes.

4 MS. YODER: We certainly will do that, not a
5 problem. We can make those available to everyone, of
6 course, not excluding anyone here. So if anyone would like
7 copies of those notices, we can email it and also mail it to
8 you.

9 MS. CARLYLE: Okay. And just can you expand a
10 little bit on the Arizona public sharing discussions you
11 talked about or is that the one that we came about it, bob
12 had mentioned in a roundabout way. So we had him go through
13 the meetings. I think you attended three of them, and forum
14 board chairman Leona Caker and I were able to make one. So
15 we have been kind of -- that's how we started getting more
16 involvement with that. But we didn't find out directly,
17 just found out in a roundabout way about it.

18 MR. WALKOVIK: We didn't, Nan, that was not our
19 process. So we probably don't know as much about it as
20 those of you that went to all the meetings. I believe that
21 was that Arizona Department of Water Resources leading that.

22 MS. CARLYLE: Yes.

23 MR. WALKOVIK: And I think we had someone from
24 our office that went to a few of those. I don't know how
25 many we attended or not, but I think probably you need to

1 get ahold of them to find out exactly what that process led
2 to and where they got -- are they done? I'm not even sure.

3 MS. YODER: They're not. Probably one of the
4 easier ways to find out about it would be to go to their
5 website ADWR. Those are publicly noticed meetings, and they
6 said they will post them on their website and I do believe
7 they have a page, because I went searching for it yesterday,
8 that gives you a record of the meetings they had. And I
9 believe there are some notes or outlines posted from it. So
10 you might be able to pull down information directly.

11 MS. CARLYLE: Thank you.

12 MR. CHANDLER: Also at one point we had actually
13 considered bringing the State into this meeting and let them
14 kind of give a lowdown as to where they're at at least for
15 this time. We decided to not confuse the State process and
16 the federal process. But I think I may be speaking out of
17 turn. I think we could facilitate having the State give us
18 similar presentation for what they've been doing in their
19 process to a group of the tribes. If that's something you
20 would like I think we can facilitate that.

21 MS. YODER: And certainly their process is not
22 complete, and I do understand they'll still meeting.

23 MS. INTERPRETER: Perhaps but I might want to
24 hear the federal perspective on the State's idea too, maybe
25 privately with the Feds.

18

1 MR. WALKOVIK: On Arizona's --

2 MS. INTERPRETER: Yeah, possibly maybe a meeting
3 to hear from them. I think we would like to hear your
4 perspective on this.

5 MR. WALKOVIK: I don't think they finished their
6 process yet. They're in kind of the final stages. We have
7 attended -- someone from my staff has attended the majority
8 of those meetings. But so we don't have their final product
9 I don't think.

10 MS. YODER: No. And what I attempted to say
11 briefly to you earlier in my presentation was the key
12 elevations at which they thought they were discussing taking
13 shortages from the State of Arizona, loosely speaking,
14 that's the information we have from them right now in that
15 process. And so there is called a step shortage strategy.
16 There is much more to it I'm sure, but that's the piece of
17 information that I currently have available until such time
18 they bring out of their process something they want to
19 advance to us for consideration. And it would be like
20 anyone else, you know, input into our process a comment that
21 we will use as information as we go forward to develop
22 alternatives. As Larry pointed out, they aren't developed
23 they are still in the process. We are at the beginning.

24 MS. INTERPRETER: Is your representative
25 attending those meetings as a listener or to provide

1 technical advice or input on?

2 MS. YODER: We solely sit there to listen. And
3 it's not always been the same person. Whoever we have
4 available.

5 MS. CARLYLE: Just referring back to all who was
6 cc'd, I was just curious as to you mentioned you met with
7 the Colorado River -- we call them the Colorado River
8 tribes. And then was there a different -- so were they sent
9 a similar letter to this to meet only with them? And then I
10 don't see any other tribes on here that again I'm not sure
11 if they have a listing.

12 But I thought it was kind of curious again about
13 consultation, and you only list -- I mean there's only some
14 tribes on here versus notice given to all Arizona, what, now
15 has 22 tribes. So I didn't know if there was a distinction
16 between, like I say, just going back to a previous
17 initiative we have. It started breaking into the river
18 tribes, the metro tribes, rural tribes, they even had an
19 Apache coalition. And then we joke. We said we were going
20 to start up an -- but all in all it was still one. So I was
21 just curious, didn't even think about til right now, why
22 this particular listing and not all, say, 22 tribes.

23 MS. YODER: Our initial contact was with the CAP
24 tribes down here and with the ten Indian tribes. You
25 literally received the same letter. It's just that we had

19

1 it go out that we organized a meeting at McKeron to make it
2 easier for people to get there versus one down here. We
3 didn't think there would probably be a lot of interest in
4 the meeting initially until you knew what we were doing.
5 Now that we have established some contact, we will, of
6 course, be sending out a broader letter to all the tribes
7 talking about why we're here to initiate consultation and to
8 identify interest at all levels.

9 But initially we wanted to get some of the key
10 players that we'd had come to us before, you know, to see if
11 they would be interested in engaging with about us, sort of
12 that first step. And now there was a few people I talked
13 with here in the room where I was like, "Do you think so and
14 so would be interested? Would you call them sometime." I'm
15 getting much better at finding someone through a chain of
16 phone calls than through a letter. So it was a bit of a
17 struggle at first. So there is every intent that we will
18 shortly issue a letter to all tribes and engaging them,
19 seeing what interests they have. But initially we really
20 didn't want to see tribes that had talked to us already in
21 process, if you will would be willing to come and sit down.

22 MS. INTERPRETER: And I know you told me that we
23 were on the mailing list, but I would expect you maintain a
24 separate mailing list for, like, those letters that go out
25 to the tribes. We need to be on that list as well.

1 MS. YODER: Okay.

2 MS. INTERPRETER: Because, when the chairs of the
3 tribes, presidents of the tribe delegate that job to us,
4 they expect that, when they get another notice in the mail,
5 that it's being dealt with by their attorneys and, when
6 their attorneys don't get the notice of it, it's a problem.
7 So it needs to say cc, you know, to the tribal attorney or
8 whatever it is that has been designated as the person
9 responsible. 20

10 MS. YODER: And that is duly noted and probably
11 been an oversight in making that connection. If there's any
12 other types of connections we need to make for you or
13 organizations that you want to also be noticed at the same
14 time we notice you, please tell us so that we know and we
15 don't overlook something.

16 MR. WALKOVIK: That's true.

17 MR. JAMROG: Is that true with folks that work on
18 the -- for the next mailout, we have a lot of connections
19 for the cultural impact levels and the National Historic
20 Preservation Act in consideration. You know, we have
21 culture resources or natural resources division contacts. I
22 don't know if we have all the water.

23 MS. SAINT: My suggestion would be these tribes
24 let us know who they want us to notice. This is really in a
25 consultation process, that's helpful to the tribe. If you

1 could let us know who you would like us to notify, we will
2 do that.

3 MS. YODER: Thank you, Debbie.

4 MR. DUNCAN: Sonny Duncan, Apache Tribe, back to
5 the strategies. On the little newsletter in the back
6 corner, right-hand corner, it is also there in the corner,
7 if it helps any. So there is LCN and UCN. Thank you.

8 MS. YODER: Thank you. I'm sorry. Well, we'll
9 be more sensitive next time around for that.

10 MR. WALKOVIK: If you, as we said earlier, if
11 you have other thoughts as you think about any of this
12 stuff, get back to us and any other thoughts or questions
13 today. We don't want to keep you longer than you need to
14 be.

15 MS. INTERPRETER: So we'll await maybe a letter
16 coming from you that says we'd like to talk to you about
17 these alternatives or something?

18 MR. WALKOVIK: We certainly can do that. I
19 think we've heard individually from some of you. We want to
20 be as respectful and do whatever is going to be useful to
21 you.

22 MS. SAINT: I guess maybe we could other among
23 this group that you wanted to say tentatively before we did
24 alternatives, we would meet with them again before we
25 determine the final alternatives, at least how that was

1 going to be.

2 The other piece I'd like to say is for some of
3 the tribes that have water settlements, you might be
4 impacted differently than just kind of the straight CAP
5 contract tribes, and I'd be happy to, if I've got the 21
6 responsibility for your tribe -- well, for all of them, to
7 arrange for that we could talk to you about how the specific
8 provisions of your settlement might be impacted differently
9 by these. For instance, Ak-Chin community is impacted
10 whenever the shortage is declared. That takes you to a
11 specific point. Gila River is impacted differently, all
12 those are impacted differently under the Southern Arizona
13 Water Rights Act, also San Carlos Apache, how that all plays
14 together.

15 MR. JAMROG: When Robin mentioned that she would
16 like to meet at least between when we initially formulate
17 the alternatives and between the draft, technically you know
18 alternatives are never finalized until the final. But
19 before the draft would be technically probably when we would
20 look down. So any time before the draft.

21 MS. INTERPRETER: I understand that. A lot of
22 times we know where we are going. We'd just like that that
23 opportunity before the draft is --

24 MR. WALKOVIK: Sure. Any other thoughts? Let
25 me thank you again for being here. It's my honor to have a

1 chance to meet you today. So thank you for your thoughts
2 and your input and please continue to share with us. Thank
3 you very much.

4 (WHEREUPON the meeting concluded at 12:00 p.m.)
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2 STATE OF ARIZONA)
) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing meeting was taken
5 before me, DIANE DONOHO, Certified Reporter, Certificate No.
6 50691, in and for the State of Arizona; that the foregoing
7 pages are a true and correct transcript of all proceedings
8 had upon the taking of said meeting, all done to the best of
9 my skill and ability.

10 I FURTHER CERTIFY that I am in no way related to
11 any of the parties hereto, nor am I in any way interested in
12 the outcome thereof.

13 DATED at Phoenix, Arizona, this 8th day of

14 February, 2006.
15
16
17

18 *Diane Donoho*
19 Diane Donoho, RPR
20 Arizona Certified Reporter
21 Certificate No. 50691
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25