

Appendix O

**February 16, 2006, Phoenix, Arizona
Tribal Consultation Meeting Transcript**

DEVELOPMENT OF LOWER BASIN SHORTAGE GUIDELINES
AND COORDINATED RESERVOIR OPERATIONS STRATEGIES PROJECT

TEN TRIBES PARTNERSHIP AND U.S. BUREAU OF RECLAMATION
CONSULTATION MEETING - EXCERPTS

Phoenix, Arizona
February 16, 2006
9:34 a.m.

REPORTED BY:
RABIN' MONROE, RMR, CR
CERTIFIED REPORTER
CR #50653

PREPARED FOR:

(COPY)

1 THE TEN TRIBES PARTNERSHIP AND U.S. BUREAU OF RECLAMATION
2 CONSULTATION MEETING
3

4 BE IT REMEMBERED that the Ten Tribes Partnership
5 and U.S. Bureau of Reclamation Consultation Meeting was
6 taken before RABIN' MONROE, RMR, CR, a Certified Reporter,
7 in and for the County of Maricopa, State of Arizona, on
8 February 16, 2006, commencing at 9:34 a.m., at the
9 COURTYARD MARRIOTT, 2101 East Camelback Road, Phoenix,
10 Arizona.
11

12 APPEARANCES
13

14 BUREAU OF RECLAMATION:

15 BOB JOHNSON, Regional Director
16 TERRY FULP, EIS Team
17 NAN YODER, EIS Team
18 NANCY COULAM, EIS Team
19 JOHN JAMROG, EIS Team
20 DEBBY SAINT, Lower Colorado Region

21 TRIBAL REPRESENTATIVES:

22 GEORGE ARTHUR, Navajo Nation
23 BRENNNA CLANI, Navajo Nation
24 STANLEY POLLOCK, Navajo Nation
25 GARY HANSON, Colorado Indian Tribes
CATHERINE CONDEN, Southern Ute Indian Tribe
JIM NEWTON, Southern Ute Indian Tribe
PETER ORTEGO, Ute Mountain Ute Tribe
KATHERINE VERBURG, Department of Interior

1 P R O C E E D I N G S

2

3 BOB JOHNSON: Good morning, everybody. Thanks for
4 coming. My name is Bob Johnson. I'm the regional director
5 for the Bureau of Reclamation in Boulder City, Nevada. And
6 we're here representing both the Upper and the Lower
7 Colorado regions. We have Nancy here from Salt Lake City.

8 And this is a joint effort, basin-wide effort,
9 between both regions of Reclamation and Secretary of the
10 Interior to develop a whole series of, you know, operational
11 guidelines. We really expanded what we're doing from what
12 we originally anticipated into a much broader range of
13 management -- Colorado River Management activities.

14 And this is the third government-to-government
15 consultation that we've held with Tribes. We had one in
16 Salt Lake, another one in Phoenix, and this is the third
17 here in Phoenix.

18 And we really appreciate everybody's coming.
19 We're very interested in continuing a dialogue with the
20 Tribes in a government-to-government fashion. We're hoping
21 to meet, you know, at the Tribes' desires, and certainly as
22 developments begin to occur in terms of making progress and
23 moving forward.

24 I think the significant thing that's happened
25 since the first meeting that we had, or the first two

1 meetings that we've had, is we've gotten a fairly specific
2 proposal from the seven Colorado River Basin states, and I
3 think it would be good to be able to talk and give you some
4 background on exactly what's in that alternative.

5 So welcome. And -- and may we go around the room
6 and introduce ourselves. But maybe I'd ask George Arthur if
7 there's anything that he'd like to say. I think he's been
8 instrumental in pulling this meeting together today.

9 And I don't want to put you on the spot. So you
10 don't have to say anything if you don't want to.

11 GEORGE ARTHUR: No. I'd just like to express my
12 appreciation for this opportunity to meet again. We are
13 interested in maintaining open dialogue with all the
14 participants.

15 In one of our meetings earlier we were -- I know
16 the Tribes were concerned that there was ongoing meetings
17 with the State, and I think that was the meeting -- the main
18 concern as to a question of why the Tribes were not part of
19 that discussion. And there might be a time in the future if
20 there's more talks with the State that the Tribes should be
21 notified. I think that was basically the concern.

22 But other than that, I really appreciate this
23 opportunity to -- thank you for your time. So ...

24 BOB JOHNSON: Okay. Good. Thank you.

25 Why don't we go around the room and just -- Gary?

1 GARY HANSON: Gary Hanson with Colorado River
2 Indian Tribes.

3 PETER ORTEGO: My name is Peter Ortego. That's
4 O-R-T-E-G-O. And I'm the general counsel for the Ute
5 Mountain Ute Tribe.

6 JIM NEWTON: Good morning, everybody. My name is
7 Jim Newton, Junior, Southern Ute Tribal Councilmember.

8 CATHERINE CONDEN: Catherine Conden representing
9 Southern Ute Tribe.

10 JOHN JAMROG: John Jamrog. I'm with the
11 Boulder City office.

12 NANCY COULAM: Nancy Coulam. Upper Colorado
13 Region, and I'm on the EIS team.

14 TERRY FULP: Terry Fulp. I'm with Boulder Canyon
15 Operations in the Lower Region, and also on the EIS team.

16 NAN YODER: Nan Yoder. I'm Bureau of Reclamation
17 in Boulder City, and also on the project team.

18 STANLEY POLLOCK: Stanley Pollock with the Navajo
19 Nation Department of Justice.

20 BRENNNA CLANI: I'm Brenna Clani. I'm also with
21 the Navajo Nation Department of Justice.

22 GEORGE ARTHUR: Good morning. I'm George Arthur.
23 I'm with the Navajo Nation Council, presently filling in as
24 president of the Ten Tribes.

25 KATHERINE VERBURG: I'm Katherine Verburg. I'm

1 with the Department of Interior Solicitor's Office.

2 DEBBY SAINT: I'm Debbie Saint. I'm the Lower
3 Colorado Region's Native American program manager.

4 BOB JOHNSON: Okay. Very good. Well, thanks for
5 being here.

6 We -- we do have a reporter here, and we are, you
7 know, taking notes. We're going to make sure that we have a
8 record of, you know, what's said and what your concerns are
9 so that we can maintain that, you know, for -- for our
10 records and make sure that we're not missing anything.

11 George, in response to your comment about the
12 Tribes -- or I mean about the States in -- and participating
13 with them, all that the States have done to date, all --
14 those have been the States' meetings. They're not --
15 they're not meetings of the Bureau of Reclamation. They
16 held a number of meetings without us. And then there --
17 they also held a number of meetings where they invited us to
18 come and participate.

19 Our role with them has primarily been as a
20 technical resource. We provided technical data and
21 information to them. But those have not been Bureau of
22 Reclamation meetings. They were State meetings. They were
23 scheduled and called by them, and we attended at their
24 invitation.

25 And I would just say that we're open to meeting

1 with any interest group as it relates to this process.
2 We've had a number of meetings with environmental groups.
3 We've done similar kinds of technical and provided similar
4 kinds of technical support and information to environmental
5 groups.

6 The non- -- the NGO's have submitted a similar
7 proposal on shortage guidelines formally to the Secretary
8 that they developed out of the meetings that they had with
9 us.

10 And similarly, the power users have -- we've had
11 some separate meetings with some of the power users, as
12 well, who've been interested in what's going on. And I
13 think this is kind of our effort to have similar kinds of
14 meetings and consultations with the Tribes, and we're very
15 open to continuing this dialogue that way that -- that
16 meets, you know, your needs. So ...

17 And with that, I am going to turn it over to
18 Terry Fulp, who's our -- one of the team leaders, along with
19 Randy Peterson, in our Salt Lake City office. But he's the
20 team leader in terms of trying to put together this overall
21 program.

22 And I'll turn it over to Terry.

23 (A presentation by Terry Fulp was commenced.)

24 CATHERINE CONDEN: I had a quick question. You
25 mentioned you had a meeting in Salt Lake, and so this was

1 the third meeting?

2 TERRY FULP: It was in Vegas, I think.

3 BOB JOHNSON: You're right.

4 CATHERINE CONDEN: Because he said three meetings.

5 He said Salt Lake, Salt --

6 TERRY FULP: It was a slip of the tongue, yes.

7 CATHERINE CONDEN: So this is just the second
8 meeting?

9 TERRY FULP: This is the second -- we had -- with
10 the Ten Tribes this is the second meeting. We have met with
11 other Tribes --

12 CATHERINE CONDEN: Okay. Okay.

13 TERRY FULP: -- in another meeting. But this is
14 the second meeting with the Ten Tribes part.

15 CATHERINE CONDEN: I just wanted to make sure
16 that -- okay.

17 TERRY FULP: Great.

18 BOB JOHNSON: Yeah, we met separately with the
19 Central Arizona Project Tribes.

20 CATHERINE CONDEN: Okay.

21 TERRY FULP: Correct.

22 BOB JOHNSON: And they're kind of really in a
23 unique position in -- I mean, most of the tribes on the main
24 stem have federal reserve rights that are very high in
25 priority, probably won't be affected by shortages on the

1 Colorado River.

2 CAP tribes have rights associated with Central
3 Arizona Project, and so shortages have a much higher
4 likelihood of having impacts on them. And so we've
5 consulted with them separately in government-to-government
6 consultation.

7 But, I mean, as far as I'm concerned, in -- any of
8 the government-to-government consultations is open to
9 whoever -- you know, whatever Tribes would like to attend.
10 I think the -- these have been focused on the Ten Tribal
11 Partnerships on the main stems of the river. And we're
12 comfortable with doing it in any way that you all are
13 comfortable in doing it.

14 TERRY FULP: Okay. With that, we'll dive in.

15 (The presentation by Terry Fulp was resumed.)

16 STANLEY POLLOCK: On the previous line I had a
17 question about the way you look at allocation.

18 Where it says 16.5 million acre feet allocated
19 annually, that doesn't include the million acre feet
20 allocated to the lower basin above the 7.5?

21 TERRY FULP: It doesn't. That doesn't. Just --

22 STANLEY POLLOCK: Okay. So --

23 TERRY FULP: We could. We could and call it 17
24 and a half, absolutely.

25 BOB JOHNSON: But the 15.1 does not include the

1 lower basin inflows --

2 STANLEY POLLOCK: Into Mead.

3 BOB JOHNSON: -- if you're going to compare it.

4 TERRY FULP: That's correct. And that's correct.

5 STANLEY POLLOCK: Right. I was just curious
6 how -- on both of those how that all sort of fit into the
7 equation. Okay.

8 (The presentation by Terry Fulp was resumed.)

9 CATHERINE CONDEN: Terry, can you explain how the
10 State's agreement is going to fit into the whole NEPA
11 process?

12 TERRY FULP: That's a great question. I should
13 have already.

14 It's public input just like anyone's input in our
15 process. We certainly -- it'll appear in our scoping report
16 as the other input has, and we will look at this in great
17 detail and for -- as we formulate our alternatives.

18 Certainly pieces of this will appear in
19 alternatives. We feel fairly confident about that. Many of
20 the things that are being proposed in here are things that
21 we've been discussing for maybe 15, 20 years that would be
22 good things to do to the system.

23 But again, it's just a part of the public process
24 or input to our process just as anyone else.

25 CATHERINE CONDEN: So you're not just going to

1 take this and --

2 TERRY FULP: Not at all.

3 CATHERINE CONDEN: -- and pick this as your
4 preferred alternative --

5 TERRY FULP: Preferred, no, ma'am.

6 CATHERINE CONDEN: Okay.

7 TERRY FULP: Not at all.

8 NANCY COULAM: Maybe mention the conservation one,
9 as well.

10 TERRY FULP: That is a good point. Thanks, Nancy.

11 We've -- we've really received during this period
12 up to kind of the scoping report time, which is now, two
13 al- -- two proposed alternatives, if I could use that term
14 loosely, but proposed recommendations; this one, and one
15 from a group of environmentalists led by Pacific Institute
16 and Environmental Defense, I would say, and it's called
17 Conservation Before Shortage. And that one's also available
18 on our Web site. You can download that one if you'd like
19 it.

20 The concept there was they didn't focus -- they
21 focused on the operation of Lake Mead only, and their idea
22 was to have a more market-driven mechanism so that you could
23 conserve water prior to taking shortages, and that way delay
24 the onset and potentially the magnitude of future shortages.

25 And as Nancy pointed out, that's also input into

1 our process, and we're analyzing all of those ideas now as
2 we start to formulate these alternatives that'll appear in
3 the draft.

4 Thank you. That's a good point.

5 GARY HANSON: Now, you -- we've talked -- you're
6 talking about the States' proposal and the environment
7 group's proposal.

8 Does Reclamation have a proposal?

9 TERRY FULP: We -- not yet, but we will. I --

10 GARY HANSON: That will be -- that would be
11 developed separately from these?

12 TERRY FULP: Well, what I'd like to point out is
13 this: I don't know that it's one proposal. But I think
14 what we as a project team and -- and internal Reclamation
15 need to do is assess all this comment -- these comments and
16 formulate a set of alternatives that really broadly
17 encompass what might happen on a system and what we might
18 need to do on the system.

19 So our -- I don't want to imply we would be coming
20 up with a preferred alternative on our end, but we've
21 certainly got to come up with some alternatives that again
22 encompass kind of the spectrum of what we need to cover with
23 this NEPA analysis.

24 BOB JOHNSON: But Terry, we might very well in
25 November and December when we put out our draft EIS we -- at

1 that point in time there -- there might very well be a
2 Reclamation-proposed alternative.

3 TERRY FULP: That's right.

4 BOB JOHNSON: So we don't yet have one. And when
5 we put out the scoping report, all we're going to do is
6 identify ranges of alternatives, and maybe even ranges of
7 concepts.

8 TERRY FULP: Right.

9 BOB JOHNSON: And then the EIS will have
10 alternatives defined and analyzed and presented to the
11 public with public comment. I don't think a draft EIS has
12 to have a proposed alternative.

13 Help me out, Nancy.

14 NANCY COULAM: It doesn't have to, but it's
15 extremely unusual --

16 BOB JOHNSON: It's unusual not to have one.

17 NANCY COULAM: -- if you don't --

18 BOB JOHNSON: I would expect that our EIS, our
19 draft EIS, will have a proposed alternative. But probably
20 won't have anything until then would be my guess.

21 GARY HANSON: I was just wondering, because it
22 seemed like the Secretary put -- sort of put the weight on
23 the States' shoulders to -- to come up with these -- with an
24 alternative. And, I mean, that was the initial position.
25 And then as the States has difficulty doing that, then sort

1 of the backup position was, "Well, if you don't do it, we
2 will."

3 So that would sort of imply that -- that the
4 States' proposal is going to be the lead for -- for the
5 solving of the shortage criteria, shortage guidelines.

6 BOB JOHNSON: I -- I think that's a good point. I
7 don't think there's any question that the States play a
8 unique role in Colorado River management. In fact, the
9 Basin Project at -- that directs the Secretary to consult
10 with the States as it relates to making river management
11 decisions.

12 That doesn't mean that the Secretary has to agree
13 with the States, but she has an obligation to consult. And
14 I think that's what she's done.

15 I -- I think the States get focused on because
16 they always have this -- I don't know how to -- there --
17 there's usually differences of opinion. It's usually
18 difficult for the seven States to develop a single view to
19 present to the Secretary.

20 I think the Secretary doesn't like the idea of
21 finding herself in having to split the baby and prefers to
22 have the States make a recommendation. But it's not
23 necessarily a requirement that the Secretary adopt what the
24 States say.

25 In the case of the surplus guidelines, the States

1 made a recommendation, and we did not in fact do every --
2 everything that the States recommended. We did most of the
3 what the States recommended, but everything that they did
4 were not actually done in the surplus guidelines.

5 So -- anyway. I -- I understand what you're
6 saying. But they -- they kind of play a unique role. But
7 we don't necessarily adopt exactly what they say. And we do
8 take other concern -- you know, other perspectives into
9 consideration as we move ahead.

10 TERRY FULP: Absolutely. Okay.

11 (The presentation by Terry Fulp was resumed.)

12 GARY HANSON: Well, you know, I would think that,
13 you know, one of the upper basin's main concerns was the
14 fact that, you know, they've been over -- they've been
15 delivering more -- a lot of water over the last -- well, you
16 know, just the hypothetical is that they've -- their --
17 their releases are based on a ten-year average of releases.
18 If they overdeliver in the front half, then -- then their
19 claim initially was that they could underdeliver in -- in
20 the second half of the ten-year period to -- to, you know,
21 keep water in Powell.

22 How does that work out with this -- with their
23 calculations on this?

24 TERRY FULP: That's a really good question.

25 This particular scenario in the technical analysis

1 that we did for them always meets that compact or that --
2 let me just say it this way. Always meets the
3 75-million-over-ten-year average -- period regulation or
4 guideline or whatever you want to call that. These always
5 made it under the hydrologies we've currently studied.

6 And I always throw that caveat in, because you
7 could concoct perhaps some other input into the system that
8 might violate that.

9 GARY HANSON: Well, last year, for example -- like
10 last year for example when a huge amount of water went into
11 Mead but not very much into Powell, and this -- did you
12 include that -- that kind of -- you probably didn't. I
13 mean, you probably went off your --

14 TERRY FULP: Yeah, that current year wasn't in our
15 records yet by the time we were doing the studies. But we
16 did include other -- there were some other pretty high
17 lower-basin years. Not quite as high as that one, of
18 course. That was the best in a hundred years we've seen.

19 By the way we do the future projections, we do
20 look at all the historical data. So there was some years of
21 high lower-basin hydrology in the analysis.

22 GARY HANSON: All right.

23 TERRY FULP: Similarly, in those years have
24 combined really low years as we saw in 2002. That is part
25 of this analysis. So --

1 But to answer your question, I think their goal
2 was to find an operation that obviously doesn't violate the
3 delivery obligation between the upper and lower basin. That
4 was kind of a fundamental tenant, in my opinion, of as they,
5 you know, tried to come up with this set of parameters, they
6 wanted to make sure that was always satisfied; okay?

7 BOB JOHNSON: Doesn't the -- the 7.48, which
8 would -- be well, no. You actually go down to 7 --

9 TERRY FULP: Yeah, when you're down here and
10 balancing low, or even balancing here, Powell can go as low
11 as 7 million acre foot per year of release.

12 It's the trade-off you just pointed out. You --
13 to get the ten-year period to be 75 million, you can play
14 around a little bit with given years; right? Doesn't have
15 to be constant every year. And that's your point.

16 GARY HANSON: Right.

17 TERRY FULP: Yeah. Okay. Well, that's a lot. I
18 know it is. And again, I think as Bob mentioned, you know,
19 what we're up to internally now is to really look at what
20 makes sense as the water managers on the system to see if,
21 first of all, is the concept sound, and secondly, what --
22 what sets of parameters might make even more sense than
23 this.

24 STANLEY POLLOCK: Terry, I have a really -- I
25 think it's kind of a dumb question.

1 TERRY FULP: It's okay.

2 STANLEY POLLOCK: I've never really quite
3 understood the equalization requirement. And what --
4 what -- one thing that seems a little counterintuitive to me
5 is that in many respects you would want to, it seems to me,
6 to maximize your Powell storage over Mead on the assumption
7 that you'd have a lower evaporation rate out of -- out of
8 Powell.

9 I mean, I -- I see what's happening here when
10 you -- as you approach more shortage conditions, then
11 equalization requirement tends to go away, and I think
12 perhaps that concept is built into that.

13 But, I mean, has anybody explored the idea of not
14 visiting the equalization requirements and trying to
15 maximize Powell's storage of a way to trying to increase the
16 overall supply?

17 TERRY FULP: Yes. Through this technical work we
18 did for the States at their request, we did look at that. I
19 didn't bring the evaporation rate numbers with me, so I
20 probably won't be able to quote you the exact numbers.

21 But you are correct that Powell has lower rates of
22 evaporation, but not substantially lower. And so the kinds
23 of analysis we did show that unless you can keep that water
24 in there a really -- a fairly long period of time, your net
25 gain in evaporational losses are not significant.

1 And we could provide you actual data, if you're
2 interested, to show you that analysis.

3 STANLEY POLLOCK: I'm just curious -- you probably
4 have --

5 TERRY FULP: It's a fundamental question we get.
6 I think it's a very good question. But it was definitely
7 looked at, because it was an idea that was definitely
8 flowing around on the table.

9 Clearly if you had all that kind of storage way up
10 high in the system where the evaporation rates are really
11 low, it makes much more sense. Right.

12 And of course that was even a -- kind of a joke
13 that's thrown around occasionally in the States' technical
14 meeting was -- was just keep it all in Wyoming and we'll
15 save it all.

16 BOB JOHNSON: That was the Wyoming proposal.

17 TERRY FULP: That was the Wyoming proposal, right.

18 But it's a very good, logical question. And
19 again, we'd be glad to give you some real data on that.

20 STANLEY POLLOCK: Yeah, I'd like to see that
21 because I'm curious, but ...

22 TERRY FULP: It's a very good question.

23 (The presentation by Terry Fulp was resumed.)

24 GARY HANSON: What's the -- has there been
25 negotiation as far as Arizona taking the lowest -- their

1 lowest priority for the CAP? Have they negotiated any
2 changes in that policy? Them --

3 TERRY FULP: Any changes between them and the
4 other States, you mean?

5 GARY HANSON: Right.

6 TERRY FULP: No. What they did do, though, and I
7 make sure that you all know, there was a public process held
8 within Arizona, essentially by the Arizona Department of
9 Water Resources, with their stakeholders to try to figure
10 out what made sense in terms of this kind of what we've
11 termed stepped shortage, but they didn't go past their
12 state.

13 GARY HANSON: Okay. So their --

14 TERRY FULP: It was internal to their state.

15 GARY HANSON: They're doing a step shortage to try
16 to mitigate the abrupt shortage that they would take.

17 TERRY FULP: You bet. To try to not, for
18 instance, get into the M&I users where they would have to be
19 sharing in the shortages. Minimize those chances of getting
20 to those larger shortages.

21 We're saying the same thing, I think; right?

22 Yeah.

23 That's what they were trying to do with this idea.

24 BOB JOHNSON: It -- there -- there will not be any
25 change in the CAP priority. That's just not going to

1 happen. I mean, I think Arizona has pushed pretty hard for
2 that, but I think they've come to the realization that it's
3 just not going to happen. California would never give that
4 up.

5 I would just speculate that what the -- that these
6 are fairly favorable shortage criteria for Arizona because
7 they don't impose big shortages that can't be managed within
8 the framework of the priorities of the Central Arizona
9 Project. And I think that's one of the things that that's
10 part of what Arizona's getting here I think out of this is
11 some shortage criteria that's not Draconian in terms of its
12 impacts.

13 TERRY FULP: Right.

14 BOB JOHNSON: Because they have to bear most of
15 those impacts.

16 TERRY FULP: This particular step shortage came
17 out of Arizona's public process. Essentially this was their
18 recommendation to the States that this be the shortage. And
19 Bob's right. I mean, these are what they think are
20 manageable shortages.

21 BOB JOHNSON: The -- the -- some of the other
22 States would probably prefer to see more significant
23 shortages, you know, because the sooner you declare
24 shortages the higher levels you hold the reservoir, the
25 higher likelihood that the reservoirs will recover quickly,

1 and then they'll --

2 GARY HANSON: Well, I mean, the -- the other side
3 of that is the fact that the Phoenix area has a lot of
4 ground-water potential, has a lot of wells that they can
5 turn on. And they -- they are in perhaps one of the best
6 positions of all, the big cities, to have that mitigating
7 alternative water source. So -- you know, that's definitely
8 something to think about.

9 TERRY FULP: You bet. Yes, it is.

10 BOB JOHNSON: And that's very much central to the
11 Arizona plan. I mean, they've actually -- that's a really
12 central part of what Arizona has done over the last 10 or 15
13 years, and that's developed a ground-water management
14 strategy that assumes that when shortages occur, they've got
15 that water source to fall back on.

16 And -- and, I mean, you understand that probably
17 better than I do.

18 GARY HANSON: Not only just the banking, but the
19 fact that they've got a whole lot of ground-water wells, and
20 they had historically used a lot of ground water, and a lot
21 of those wells are, you know, moth -- maybe "moth balled" is
22 kind of a -- is too far over to the -- to the shutdown. But
23 they could easily turn them back on.

24 BOB JOHNSON: Oh, absolutely. And that's their
25 plan. Yeah.

1 TERRY FULP: Right.

2 STANLEY POLLOCK: Bob, when you say that under
3 the -- under these criteria it's not likely that Arizona
4 would basically have a -- a shortage on the municipal side,
5 the one thing that I'm concerned about on that is in the
6 pool of water that's available to the Secretary for
7 settlement Indian water rights, that pool is with
8 nonIndian-AG priority water.

9 And I'm just curious to what extent has Arizona
10 and obviously Interior will have to look at the effect of
11 these criteria on -- on those supplies, which are intended
12 to be largely municipal water supplies but have a
13 lower-than-municipal priority with CAP. And I was just
14 curious whether anybody's looked at that particular issue
15 yet.

16 BOB JOHNSON: Yes. Absolutely. That'll have to
17 be something that's analyzed and considered, you know, into
18 the EIS on what categories of CAP water.

19 There is a plan for dealing with that in the
20 context of the Arizona settlement, and that is to do what
21 the cities are doing and what the rest of Arizona is doing
22 and put water in ground-water storage so that when that
23 happens there's a source to fall back on to meet the Tribal
24 needs that are part of their settlement. So we call it
25 firming of the nonIndian.

1 And that's actually provided for in the Arizona
2 Settlement Act, and State's actually going to do some
3 firming for the Tribes under that Act, and --

4 STANLEY POLLOCK: Yeah, but I think in the Act not
5 all water is firm; right?

6 BOB JOHNSON: No, that's true. But it's still a
7 tool there's there, you know, if you decided to do that, so
8 I think it's still a tool that's there. But you're right.
9 There is a chunk -- big chunk of that water is that the
10 nonIndian AG priority you asked about. And it's, you know,
11 a matter of concern. Something will have to be considered.

12 TERRY FULP: Okay. Good. Other questions?

13 At this point I'm going to try to fill in that
14 in-between part of Lake Mead for you, and --

15 GARY HANSON: Okay. You might be -- you're going
16 to be talking about it, but that would be my question about
17 Lake -- what do they do when they hit that 400,000 acre feet
18 shortage? I mean, is there -- are there -- do they take
19 ac- -- are there other actions that -- that -- that sort of
20 open up the -- the supply of the -- you know, the -- the
21 options for managing Mead, I guess.

22 BOB JOHNSON: But in Arizona the AG use just
23 doesn't take their share of the CAP water. That's what
24 happens with -- at 400 and 600. 400 and 500 and 600.

25 DEBBY SAINT: The 400 is pretty close to the

1 amount of Indian AG water available.

2 GARY HANSON: So you shut down the agriculture.

3 BOB JOHNSON: Right. That's actually provided for
4 in the CAP contracts, the AG water supply.

5 GARY HANSON: Like I said, they got a lot of
6 ground water. They can pump the ground water.

7 BOB JOHNSON: AG users will fall back on ground
8 water and shortages go all the way to M&I, then urban waters
9 would fall back on ground water. And I think ultimately the
10 urban areas in Arizona, depending on the magnitude of
11 shortage, would probably go to buying agricultural water.

12 GARY HANSON: Okay. So -- but is there any
13 component that would be related to the conservation
14 alternative that the -- that the conservation groups
15 proposed?

16 TERRY FULP: Let me explain that real quick and
17 see how -- and I think that's one of the things we will
18 definitely study, and that is that the conservation groups,
19 the environmental groups that proposed, what they said was
20 they defined a couple levels above this shortage the onset
21 of shortage and said at this level there would be 200,000
22 acre feet of conservation applied to forestall you getting
23 to the 1075 or whatever the shortage boundary is.

24 Now, their me- -- they went as far as to propose a
25 mechanism for how to pay for that. And I'm not trying to

1 say we would -- we know what we'd do about anything like
2 that. But this idea of putting in some mechanisms to
3 promote conservation prior to getting to shortage sounds
4 like a pretty good management idea.

5 And so we'll certainly be studying that -- that.
6 Now, how you do it, again the mechanisms, we don't know, but
7 forbearance certainly comes to mind. You know, people pay
8 willing sellers to essentially rent the water for some
9 period of time.

10 GARY HANSON: You know, if AG's going to take the
11 hit for the -- for the -- for the shortage in Arizona, I
12 would think that, you know, I mean, what you gotta do is you
13 gotta figure out, "Okay. How much is it going to cost AG to
14 turn on their pumps and switch to ground water? And what's
15 it worth to users to try to forestall that shortage with
16 some alternate payback method?"

17 I mean, that would seem to me -- I mean, because
18 that's really what you're talking about here, how much is
19 the alternative going to cost, whether it's -- is it going
20 to cost -- you know, it's going to be more expensive to
21 store water in Mead than to turn on the ground-water pumps.
22 It's kind of the bottom line.

23 TERRY FULP: Right. Exactly. Okay. So now, what
24 happens in --

25 BOB JOHNSON: So does the price.

10

11

1 (The presentation by Terry Fulp was resumed.)

2 GARY HANSON: Would that water be earmarked for
3 the provider?

4 TERRY FULP: It would be. Under their proposal it
5 would be earmarked for the provider, or the payer or
6 whatever, yes.

7 GARY HANSON: Right. The payer.

8 TERRY FULP: Yes.

9 (The presentation by Terry Fulp was resumed.)

10 GARY HANSON: You know, I -- just off the top of
11 my head I would think that augmentation is a real iffy deal
12 compared to demand management, which is what you're talking
13 about, you know. Because the demand management, you know
14 the water's there and you just kind of make sure you don't
15 use it this fast.

16 Augmentation's a -- you know, maybe the -- it's
17 going to rain. We're cloud seating. Maybe not.

18 BOB JOHNSON: But on the ground-water piece, that
19 would be very specific. But you know there's not going to
20 be that much nonsystem supplies out there to go. They're
21 going to be fairly small in terms of what you can get from
22 the beginning --

23 GARY HANSON: But ground water's not really new
24 water. They know it's there and they know that they can tap
25 into it.

1 BOB JOHNSON: It's new to the Colorado River
2 System if it's introduced.

3 GARY HANSON: Well, sure, if you put in the river.

4 BOB JOHNSON: Which is part of what they're asking
5 for.

6 TERRY FULP: So again --

7 BOB JOHNSON: I agree with your demand management
8 is by far the biggest piece.

9 TERRY FULP: What's Bob saying is this -- what
10 they've proposed to us is put some flexible -- these
11 mechanisms in -- a place that allow this to happen. And a
12 lot of it makes good sense, as we can say, in terms of being
13 prudent water managers and best balancing what you have in
14 addition to perhaps auditing the supply.

15 It's a much better way to operate if we don't have
16 to wait till the reservoirs get low just to kick in
17 guidelines at that point. You've got a lot better chance of
18 doing the right thing if you can balance things prior to
19 when the crisis hits.

20 Okay. Any other -- can we answer some other
21 questions at this point? I know it's a lot. And as you
22 read this recommendation, you'll have lots of that -- more
23 questions, I'm sure, of which we might or might not be able
24 to answer them all at this stage. It's a fairly early
25 proposal, I believe, in some sense. We're very pleased to

1 have received it. We do think there's some good input
2 there. But as Bob pointed out, just as the NGO's and their
3 conservation input, that was very valuable, as well, and
4 ties in some sense very closely to this one.

5 (The presentation by Terry Fulp was resumed.)

6 CATHERINE CONDEN: So are you wanting additional
7 comments from us before the scoping report comes out?

8 NAN YODER: We would --

9 CATHERINE CONDEN: It's gotta be pretty close
10 to --

11 BOB JOHNSON: Not necessarily.

12 TERRY FULP: Thanks, Bob. Not necessarily .

13 BOB JOHNSON: If you want to, okay.

14 TERRY FULP: If you have them and can get them to
15 us quick.

16 JOHN JAMROG: It would be problematic for us to
17 get it tied into this scoping report at this time. But as
18 Nan says, the initials ones are, so ...

19 NAN YODER: And that was our reason for having
20 court reporters at the prior meetings, to actually capture
21 anything that you could relay to us.

22 TERRY FULP: And just one further thing. I think
23 you know it. We will accept your input at any time in the
24 process. It's just that we have to at some point cut -- cut
25 it off and say that's what's in the scoping report so we get

1 it out on the street. So --

2 BOB JOHNSON: You know when it might be really
3 meaningful to meet with you would be once we've got
4 alternatives formulated. Because the scoping report is
5 probably not going to tell you -- not going to add a lot.

6 Now, you could -- what you could do is you could
7 look at the scoping report and decide if you want a meeting
8 at that time. But once we get alternatives formulated that
9 we're going to do analysis on, I mean, that might be a time
10 when there would be some real substance to talk about.

11 GEORGE ARTHUR: What was the time frame on the
12 alternative?

13 BOB JOHNSON: We didn't give a specific.

14 TERRY FULP: We're saying it's two to three months
15 out from now. So --

16 CATHERINE CONDEN: May?

17 TERRY FULP: May/June time frame, I think. And we
18 could certainly as we get closer give you a much firmer date
19 of when that will be. But it's that kind of time frame.

20 GEORGE ARTHUR: I don't know if there's any
21 significant discussions happening that -- with the States as
22 far as these type of dialogues are concerned, but we have a
23 mid-year board meeting the first part of May, I think it
24 was, with the Colorado River Water users, association
25 meeting. So I don't know if that means anything as far

1 as -- anything as far as the time frame is concerned.

2 TERRY FULP: When was that again, did you say?

3 GEORGE ARTHUR: I think it's the first week of
4 May.

5 TERRY FULP: Of May. You know, I -- we're a
6 little hesitant to know we have all the alternatives really
7 ready by then just because there's so much work. We can't
8 quite define --

9 GEORGE ARTHUR: I don't know if the States -- I
10 don't know if the States are going to put this on their
11 mid-year calendar or not. I just don't.

12 GARY HANSON: They haven't so far. Pretty much
13 kept it to, you know, within the -- behind-closed-door kind
14 of deal.

15 TERRY FULP: We could certainly as we get closer
16 to the development of alternatives interface with you, give
17 you a date of when certain -- when they'll be ready. And I
18 think Bob's got a pretty good idea there in that at that
19 point it would be a for sure good time to sit down and
20 explain them to you and answer any questions you have and
21 get additional input from you in terms of those.

22 Was that -- would that make sense?

23 And again, when the scoping report comes out, if
24 you have questions, please call us. And if we -- if you
25 think we need anything at that point, we're willing to --

1 we'll welcome that and willing to do that.

2 GEORGE ARTHUR: Okay.

3 STANLEY POLLOCK: Let me try to describe from the
4 Navajo perspective.

5 When any of the alternatives that we would look at
6 that you would develop, I mean, our -- at the risk of
7 sounding like a broken record, I'm -- we are very concerned
8 that Reclamation needs to analyze how any of these
9 alternatives fit within the concept of meeting Navajo needs
10 of water from the California River and potential claims that
11 Navajo would have.

16

12 And there's a couple of issues here. I mean,
13 earlier Bob was talking about how with respect to the
14 main-stem Tribes that have allocations of -- of main-stem
15 water. Certainly Navajo's in that class with respect to the
16 upper basin. But even in the upper basin we have water that
17 is relatively junior, from both NIT (phonetic) and from ALP.
18 And I know that Southern Ute is kind of in the same
19 situation.

17

20 But an even bigger issue is in the lower basin
21 where we don't have a quantified water right. The
22 Reclamation study that Senator Kyle basically sponsored
23 concluded that to meet Navajo municipal needs, it would be
24 necessary to bring in Colorado River water, and virtually
25 every study that they ever looked at it sort of acknowledges

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1 this need.

2 What I'm concerned about is that each time we take
3 one of these actions dealing with Colorado River management,
4 we sort of -- the ability to meet those needs get narrower
5 and narrower.

6 And when I look at the States' proposal here,
7 there's a lot of extraordinary measures that are being
8 proposed that in essence are narrowing the limits of the
9 flexibility that is currently in the system. And as those
10 limits become even more and more narrow, it's going to be
11 even harder, I think, in the future to address the needs of
12 Navajo.

13 And so in the -- Bob, in the initial letter we
14 sent you, which I think was back in August -- yeah,
15 August 31st, we were talking about needing to account for
16 the outstanding needs and the outstanding claims.

17 And so that's something that -- that you're going
18 to continue to hear from Navajo on, because we're concerned
19 that as -- as these operations and the regulations develop,
20 there will be even greater political pressure and
21 institutional pressure to -- to in a sense assume that
22 Navajo doesn't have these needs or Navajo doesn't have these
23 claims, because those claims certainly put additional stress
24 on the system.

25 And what we pointed out in our letter was when

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1 we're talking about shortage criteria and ways of
2 ameliorating the impact of shortages on the state, one of
3 the great risks of shortage is the existence of those
4 Navajo -- the very existence of those claims in a sense puts
5 the States at risk of shortage.

21

6 So we think that it's really necessary to -- to
7 come to some reconciliation with respect to what these
8 claims and what those needs are. And we're not sure when
9 that's going to happen. You know, we are in discussions
10 with the United States and the State of Arizona concerning
11 the main-stem claims. I don't -- I don't know what the --
12 the long-range outlook looks for those negotiations.

22

13 But there again, when the State is talking to us
14 about settling those claims, they are also talking about,
15 you know, CAP water, and that's why I was asking the
16 questions earlier about the CAP supplies and the priorities
17 on that Indian AG --

18 So basically at Navajo you've got the full range
19 of -- you've got claims, and the claims would be essentially
20 prior perfected rights that would be like the other Tribes,
21 and they would be senior water. You have settlement
22 possibilities, and the settlement possibilities possibly
23 include some mainstream water and possibly include some of
24 that CAP allocation, which, again, we're concerned about how
25 the shortage implicates that.

23

1 And then further upstream, like the other
2 upper-basin tribes, we have concerns about protecting our
3 water supplies in the event that there is curtailment in the
4 upper basin to meet the past term Compact obligations.

5 So those are the types of things we'd like
6 Reclamation to look at.

7 DEBBY SAINT: And you have that existing earmark
8 of some of that water for --

9 STANLEY POLLOCK: That's true, as well.

10 DEBBY SAINT: -- for the Window Rock area. 6411.

11 STANLEY POLLOCK: Navajo Gallop. Right. And that
12 is also part of the nonIndian AG supply pool, the 6411,
13 so ...

14 So that's -- you know, that's where we're headed
15 in terms of how we -- how we want to participate here in
16 looking at all the alternatives and seeing -- hoping that
17 there would be some assessment of those needs and how these
18 needs can be protected in the development of any shortage
19 criteria.

20 BOB JOHNSON: Understood. Expect there will be
21 lots of others with similar kinds of concerns, and, you
22 know, we want to hear them and make sure we're considering
23 them.

24 GEORGE ARTHUR: Thanks.

25 BOB JOHNSON: Good. Well, thank you all. Thanks

1 for coming.

2 TERRY FULP: Yes. Thank you. We'll stay in close
3 contact. And again, I referred you to our Web site. If you
4 have access to that, you can at least track the progress.

5 We'll be putting information out there at all
6 times, but we will definitely let you know as we get closer
7 to the alternatives and when they'll be available, and we'll
8 expect potentially to have a meeting at that point with --

9 BOB JOHNSON: Is that okay? We'll plan on one for
10 sure, then. And if there's a desire in the interim after we
11 put out the scoping report or something, then we'll open for
12 that, too.

13 NAN YODER: If you've signed in on any of our
14 public meeting sheets are here and the various things,
15 you're on our mailing list. You'll get paper from us
16 whether you want it or not.

17 STANLEY POLLOCK: That's fine.

18 NAN YODER: And also, if you gave us email
19 addresses, you'll get email notices, as well.

20 STANLEY POLLOCK: Terrific.

21 CATHERINE CONDEN: So explain one more time.

22 What exactly is in the scoping report? Is it just
23 the comments, basically, that you've received?

24 TERRY FULP: Yes. It's an analysis, the comments,
25 categorize --

1 CATHERINE CONDEN: Oh, there's an analysis of it.

2 TERRY FULP: An analysis, categorize. It's not
3 just the comment letter. It's a real analysis of it and
4 some conclusions drawn, and particularly this conclusion
5 that essentially our scope is a bit broader than what we
6 initially thought it would be based on the input we've
7 received. So it will be a -- an analysis and a conclusion
8 of what that goal is to do.

9 CATHERINE CONDEN: Okay.

10 TERRY FULP: Okay. Great. Thank you all for
11 coming.

12 GARY HANSON: Great. Thank you.

13 BOB JOHNSON: Good job, Terry. Thank you.

14 (Whereupon the presentation and meeting was
15 concluded at 11:05 a.m.)

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing Ten Tribes
4 Partnership and U.S. Bureau of Reclamation Consultation
5 Meeting was taken before me, RABIN' MONROE, RMR, CR, a
6 Certified Reporter, No. 50653, in and for the County of
7 Maricopa, State of Arizona; that the proceedings were taken
8 down by me in machine shorthand and thereafter transcribed
9 by computer-aided transcription under my supervision and
10 direction; that the foregoing pages, numbered from 1 to 37,
11 inclusive, constitute a true and accurate excerpt of all the
12 proceedings had upon the taking of said meeting, all done to
13 the best of my skill and ability.

14 I FURTHER CERTIFY that I am in no way related to
15 any of the parties hereto, nor am I in any way interested in
16 the outcome hereof.

17 DATED in Laveen, Arizona, this 2nd day of March,
18 2006.

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RABIN' MONROE, RMR, CR
CR #50653