

**Testimony of
John F. Sullivan
Associate General Manager, Water Group
Salt River Project**

**Hearing before the Indian Affairs Committee
United States Senate
Concerning
S. 3128—The White Mountain Apache Tribe Rural Water System Loan
Authorization Act**

September 11, 2008

Chairman Dorgan, Vice Chairman Murkowski and members of the Committee,

Thank you for the opportunity to testify in support of S. 3128, the White Mountain Apache Tribe Rural Water System Loan Authorization Act. My name is John F. Sullivan. I am the Associate General Manager, Water Group, of the Salt River Project (“SRP”), a large multi-purpose federal reclamation project embracing the Phoenix, Arizona metropolitan area. SRP has a history of negotiating and settling Indian water rights disputes in Arizona. Over the past four decades, SRP has worked with numerous tribes and stakeholders to resolve Indian water rights disputes in a manner that benefits both Indian communities and their non-Indian neighbors. Most important among the benefits is water supply certainty, which is a fundamental outcome of any water rights settlement.

SRP is composed of the Salt River Valley Water Users’ Association (“Association”) and the Salt River Project Agricultural Improvement and Power District (“District”). Under contract with the federal government, the Association, a private corporation authorized under the laws of the Territory of Arizona, and the District, a political subdivision of the State of Arizona, provide water from the Salt and Verde Rivers to approximately 250,000 acres of land in the greater Phoenix area. Over the past century, most of these lands have been converted from agricultural to urban uses and now comprise the core of metropolitan Phoenix.

The Association was organized in 1903 by landowners in the Salt River Valley to contract with the federal government for the building of Theodore Roosevelt Dam, located some 80 miles northeast of Phoenix, and other components of the Salt River Federal Reclamation Project. SRP was the first multipurpose project approved under the Reclamation Act of 1902. In exchange for pledging their land as collateral for the federal loans to construct Roosevelt Dam, loans which have long since been fully repaid, landowners in the Salt River Valley received the right to water stored behind the dam.

In 1905, in connection with the formation of the Association, a lawsuit entitled *Hurley v. Abbott, et al.*, was filed in the District Court of the Territory of Arizona. The purpose of this lawsuit was to determine the priority and ownership of water rights in the Salt River Valley and to provide for their orderly administration. The decree entered by Judge Edward Kent in 1910 adjudicated those water rights and, in addition, paved the way for the construction of additional water storage reservoirs by SRP on the Salt and Verde Rivers in Central Arizona.

Today, SRP operates six dams and reservoirs on the Salt and Verde Rivers in the Gila River Basin, one dam and reservoir on East Clear Creek in the Little Colorado River Basin, and 1,300 miles of canals, laterals, ditches and pipelines, groundwater wells, as well as numerous electrical generating, transmission and distribution facilities. The seven SRP reservoirs impound runoff from multiple watersheds, which is delivered via SRP canals, laterals and pipelines to municipal, industrial and agricultural water users in the Phoenix metropolitan area. SRP also operates approximately 250 deep well pumps to supplement surface water supplies available to the Phoenix area during times of drought. In addition, SRP provides power to nearly 900,000 consumers in the Phoenix area, as well as other rural areas of the State.

SRP holds the rights to water stored in these reservoirs, and for the downstream uses they supply, pursuant to the state law doctrine of prior appropriation, as well as

federal law. Much of the water used in the Phoenix metropolitan area is supplied by these reservoirs.

The White Mountain Apache Tribe is located on the Fort Apache Reservation in eastern Arizona, established by Executive Order in 1871. The headwaters of the Salt River originate on the Fort Apache Reservation. Four of the seven reservoirs operated by SRP are located on the Salt River downstream of the Fort Apache Reservation, and approximately 42% of the water delivered by SRP to Phoenix metropolitan area customers originates on the Reservation. The United States, acting on behalf of the Tribe, has asserted claims in the pending Gila River Adjudication to the depletion of 179,000 acre-feet of water from these headwaters. These claims are based on the federal reservation of rights doctrine and largely encompass potential future uses of water by the Tribe on its Reservation.

Over the past several years, SRP and other interested stakeholders have engaged in water rights settlement negotiations with the White Mountain Apache Tribe. These negotiations are almost completed, and we anticipate that an agreement among the parties will be finalized in the next few weeks. Once agreement is reached, the settling parties will pursue Congressional approval through a larger settlement bill, but the White Mountain Apache Tribe Rural Water System Loan Authorization Act is a crucial initial step that will help implement the final agreement.

A critical component of the parties' efforts to settle the White Mountain Apache Tribe's water rights is the provision of an adequate water storage and distribution system for the Tribe and its members. The Tribe's existing system is supported by a wellfield, but the aquifer's supply is limited and insufficient to serve the reservation's needs. As an interim measure, the Tribe is constructing a small temporary water diversion system along the White River. However, this is only a short-term solution. The Tribe has determined that construction and operation of the Miner Flat Dam Project would best address the Tribe's growing municipal, rural and industrial water diversion, storage and

delivery demands. The Project will comply with Federal environmental laws, and is estimated to cost approximately \$128 million in today's dollars. Project features include a dam and pipeline for water distribution within the Reservation's boundaries including to the growing communities of White River, Cedar Creek, Carrizo, and Cibecue.

S. 3128, the White Mountain Apache Tribe Rural Water System Loan Authorization Act, provides \$9.8 million in the form of a loan to the White Mountain Apache Tribe to be repaid beginning in 2013. This legislation would allow the Tribe to conduct planning, design, and engineering work for the Miner Flat Dam Project once the Tribe and the Secretary execute a cooperative agreement. Without this legislation, funds would not be available to the Tribe to begin the design and engineering, which would likely delay construction and increase project costs by an estimated \$15 million or more due to inflation. This loan is critical to ensuring the Tribe's water supplies are provided in a timely and cost effective manner.

Although it was not the parties' intention to pursue this funding absent a settlement, we believe that we are very close to agreeing upon a comprehensive settlement with the White Mountain Apache Tribe and intend to introduce comprehensive settlement legislation in the near future. S. 3128 would lay the groundwork to begin project construction once full settlement is complete and passed. As a result of this legislation, millions of dollars could be saved and a secure water supply for the Tribe can be online more quickly.

As is evident from the numerous letters to Chairman Dorgan and Vice Chairman Murkowski, included in this hearing record, S. 3128 has the strong support of the settlement parties, including the Arizona Department of Water Resources, the Cities of Phoenix and Tempe and numerous water users in the Little Colorado River Basin. We look forward to working with the Committee on this bill and, soon, a full settlement bill. We urge you to bring the settlement one step closer by approving S.3128, the White Mountain Apache Tribe Rural Water System Loan Authorization Act.

Chairman Dorgan, Vice Chairman Murkowski and members of the Committee, thank you for the opportunity to testify before you today and for considering our views. I would be happy to answer any questions you may have for me.