



Statement of Senator Jon Kyl

Before the Senate Committee on Indian Affairs

Concerning:

S. 3128 -The White Mountain Apache Tribe Rural Water System
Loan Authorization Act

September 11, 2008

Mr. Chairman, Vice Chairman Murkowski, and members of the Committee, thank you for holding this hearing on S. 3128, the White Mountain Apache Tribe Rural Water System Loan Authorization Act. Representative Pastor has introduced the companion bill in the House.

I introduced this legislation in June 2008 to provide a federal loan to the White Mountain Apache Tribe for the planning, engineering, and design of a dam and reservoir, which will be used to provide drinking water to the tribe.

The White Mountain Apache Tribe, which is located on the Fort Apache Indian Reservation in eastern Arizona, has approximately 15,000 members. A relatively small well field currently serves the drinking water needs of the majority of the residents on the reservation, but production from the wells has declined significantly over the last few years. As a result, the tribe has experienced summer drinking water shortages.

The tribe is planning to construct a small Rural Development funded diversion project on the North Fork of the White River on its reservation this year. The tribe indicates that when the project is completed it will replace most of the lost production from the existing well field, but will not produce enough water to meet the demand of the tribe's growing population. Consequently, in order to meet the basic drinking water needs of the tribe, a longer-term solution is needed. The most likely and best solution is a relatively small dam and reservoir located on the tribe's reservation – the Miner Flat Dam.

S. 3128 would authorize the Secretary of Interior to provide a federal loan to the tribe for the planning, engineering, and design of the Miner Flat Project. Funding for the actual construction of the Project will be an essential piece of a comprehensive White Mountain Apache water settlement, which is nearly finalized.

The legislation confirming the settlement, which I will discuss in a moment, would pay for a significant percentage of the Project's costs out of a portion of the funds set aside in the Arizona Water Settlements Act for future Arizona Indian water settlements. This money, however, will not be available until 2013. If the tribe were forced to wait

until then to access these funds, the cost of Miner Flat Dam would increase \$5 million to \$7 million a year. Therefore, providing a loan to the tribe to expedite the planning of the dam would ultimately decrease the project's costs.

Under the current version of S. 3128, the loan would be repaid from the funds set aside in the Arizona Water Settlements Act for future Indian water settlements. I intend to offer an amendment that would make the loan repayable over a term of 25 years and strike the repayment provision relating to the funding in the Arizona Water Settlements Act. Moving forward in this manner will allow us more time to work through a potential PAYGO issue while at the same time allowing the planning of the project to move forward.

Within the last few days, the representatives of the non-federal water settlement parties have indicated that a White Mountain Apache settlement is nearly finalized. The parties' representatives have expressed written support for the settlement and have indicated that they will be submitting the settlement to their respective governing bodies for review and action. The comprehensive settlement would permanently quantify the water rights of the tribe and provide a waiver and release of the tribe's claims.

In light of the parties' representations, I am introducing legislation today to authorize and confirm the settlement. The legislation would also provide federal funding for the Miner Flat Project, repay the loan authorized in S. 3128 with funds set aside in the Arizona Water Settlements Act, and authorize appropriations for other water-related projects on the tribe's reservation. The settlement and accompanying legislation would provide certainty to water users in the State of Arizona regarding their future water supplies and provide the tribe with a long-term reliable source of drinking water.

In summary, S. 3128 will help advance the planning of the much-needed Miner Flat Project as well as control its costs. Given the importance of S. 3128 and its bipartisan nature, I hope the Committee will work with me in securing its swift passage in the remaining days of the 110th Congress.