

Good Morning, Chairman Cervantes and committee members, and thank you for this opportunity to address the committee on the subject of the proposed diversion of Gila River water. (Acknowledged Ramos, agreed with Anthony Gutierrez about improvement in what we were talking about – no longer a large disruption to the river, not a billion dollars. Demonstrates that those of us criticizing the project a couple of years ago as infeasible were correct.) This subject was a centerpiece of my county commission campaign, and was easily the issue most commonly raised with me as I campaigned door-to-door last year. As my fellow Commissioner Billy Billings pointed out at our last meeting, you seldom read about “the proposed Gila River diversion” in the local press – it’s always “the controversial proposed Gila River diversion.” Mr. Billings had teased a local reporter about that fact during the campaign, but after eight months in office, he admitted that “Gila diversion” very much deserves to be permanently coupled with “controversial.”

Having mentioned the County Commission, I would like to make sure to note that my presentation today represents my personal perspectives, not an official position of the Commission. I have some hope that we are moving toward general agreement on our priorities for the CAP Entity’s work, but we are not there yet.

It is hardly surprising that the proposal to divert water from the Gila set off a firestorm of opposition and then a strong counter-reaction from project supporters. For one thing, this is water in the West, and it’s as much for fighting now as it ever was. But this issue also resonates deeply in local culture. Many families have for generations gone to the river to fish and to recreate, and they don’t want to see it damaged. Other families have for generations depended on water for their livelihoods and believe future generations deserve access to as much water as we here now can provide for them. I don’t believe it has ever been easy to be a farmer or a rancher, but it certainly isn’t an easy way to make a living around here now, and I totally get it when folks tell me they fear their way of life is under attack.

Interestingly, Hispanics and Anglos are strongly united on this issue – on both sides.

On top of all that, this is about money – and what counts as a lot of money in the four-county region. Fortunately, we are no longer talking about a billion-dollar project – the latest proposal from the ISC’s engineering firm came in at around \$225 million for about 3,000 acre-feet per year of new Gila River water. (That’s \$75,000 per acre-foot, not even counting operations and maintenance or the cost of replacement water. Explain replacement water.)

Let me return to the \$225 million project estimate. By contrast, Grant County’s revenues from GRT, property taxes, copper production taxes, and federal payments in lieu of taxes are just under \$13 million. Even if you only look at the federal money available under the AWSA for non-diversion water projects in our four-county region, the amount vastly exceeds our current resources. If the \$90 million or so the feds made available to us for such projects under the AWSA were divided up proportionately by population, Grant County could fund projects costing \$42 million. And as you just heard from Ms. Lucero, we have plenty of deserving projects in

need of funding. Of particular interest to me as a Grant County Commissioner are the regional water project, which needs another \$14 million or so, and the Bayard wastewater treatment plant effluent project, which would create wetlands and perhaps a small recreational lake that would boost our groundwater recharge and support economic development and diversification in the mining district.

Unfortunately, about \$11 million of that \$90 million has already been spent – only \$1 million of which has been spent on non-diversion projects. And we're spending more all the time, as the ISC's engineers are working against the clock to come up with something even remotely feasible to give to the Bureau of Reclamation so the environmental impact studies can begin – studies that will cost another \$10 million. And we're spending more as the CAP Entity hires its own engineering firm to evaluate the work of the ISC's engineers, and as the CAP Entity's lawyer pursues highly billable concepts ranging from complex leasing deals with various Arizona tribes and water users to getting Arizona to pay us for a commitment NOT to use AWSA water, perhaps allowing Arizona to parlay this commitment into the right to send that much more of the overallocated Colorado River's water through the Central Arizona Project infrastructure to Phoenix or Tucson. Oh, and did I mention that the idea of lobbying Congress to amend the AWSA has also been floated as a possible project?

Most recently, this full-employment plan for lawyers is about to get an extension with the impending approval of an amended Joint Powers Agreement for the CAP Entity. Incredibly, this amendment unties the CAP Entity from the AWSA that until now has been its only reason to exist. The amendment authorizes the CAP Entity to negotiate with mining giant Freeport McMoRan to use its existing diversion structure, its Bill Evans lake, its pumps and its pipelines in order to move water out of the Gila Valley, up Mangas Creek, and over the Continental Divide. And we're not talking about AWSA water – Freeport McMoRan wants nothing to do with that ball of waxy red tape. The goal is to move water associated with existing water rights out of the valley. All this time we've been told the goal was to increase the amount of water available to this area. Now it turns out that the CAP Entity is happy to merely shuffle existing water around, as long as federal funds will pay for the necessary legal and engineering work. And by the way, the shuffling could only work to take water out of Gila – the infrastructure only works in that direction.

This is crazy stuff. And the continued swirl of money down the drain is depriving us of the chance to do real projects with real, calculable results in terms of water saved, groundwater recharged, and residents served.

I think this latest amended JPA reveals quite a lot about the CAP Entity and the diversion project itself. First, even though Mr. Gutierrez and others deny it, it is another indication that project proponents are facing up to the hard facts that building this thing within the requirements of the law is not going to be feasible at a reasonable price. It's hard to imagine why the Entity would turn its attention away from an actual diversion project at this crucial juncture if there was a realistic chance that a project might happen. There are only 16 months

to go until the federal government must issue a Record of Decision based on the environmental analysis they must perform. The NEPA process is notoriously time-consuming, and I would think the CAP Entity would be preparing to have all hands on deck to move that process along as rapidly as possible. Instead, they are planning a new effort to negotiate what would probably be a public-private partnership with many layers of administrative, environmental, and financial complexity.

Second, I think it demonstrates the fallacy of the idea that the Gila Valley needs more water. If the need were so great, why would the CAP Entity now be contemplating sending water out of the Valley? Why would that water be worth more elsewhere if there were high demand for it here? In point of fact, annual reports prepared by New Mexico to demonstrate our compliance with the terms of the 1964 Supreme Court decree in *Arizona v California* show that we are using, on average, less than half of the water we are allowed to use – without developing any additional water rights under the AWSA. (And the water we *are* using is not being used efficiently. According to the ISC, fewer than 2,000 acres are irrigated in the Gila Valley – almost all of that is pasture grass, by the way – but 35,000 acre-feet of water are diverted from the Gila. That comes to a diversion rate of over 17 acre-feet of water per acre of irrigated land, a sinfully high number that should be closer to 3 acre-feet per acre in a reasonably efficient system.

Third, this move highlights the central importance of Freeport McMoRan in all of this. The company's predecessor, Phelps Dodge, bought up Gila Valley water rights in the 1950s in a ... let's say less than transparent manner, so that now the company owns fully 70 percent of those rights. Since my family and I moved here from Albuquerque 21 years ago, I've heard frequent speculation about what the company intends to do with all those rights when copper has played out. Housing developments? Golf course resorts? How about figuring a way to trade their water here for water where it needs much more – downstream and across the state line in Safford, Arizona? Or selling it to users in the lower Rio Grande, where legal pressure is building to provide more water to Texas? Those last two ideas are not just the product of my anxiety: they were floated by Phelps Dodge back in 2003. According to the company's outlined proposal, the federal government would provide CAP water to the Gila River Indian Community. Phelps Dodge would provide an equal amount of water to either the feds or the state of New Mexico from its Tyrone operations. The Gila River Indian Community would then lease water to the Safford mine. The government would fund the distribution system, wells, and even the water treatment plant required to pull this off. More of the same old story of water development in the West: public money used to help private interests get rich.

We have less than a month to get the CAP Entity to come to its senses, to abandon its wasteful pursuit of a diversion project, and to instead use what is left of the AWSA's gift to this region to fund proven water development, conservation, and distribution projects with much higher returns on investment. If this committee signaled its intent to consider legislation directing the ISC not to pursue a diversion on the Gila, that could help convince many of the agencies that

make up the CAP Entity to think more realistically now, before we spend another \$10 million on an environmental impact study and countless more millions of dollars on further engineering and legal work. **Thank you again for your time and attention, and I welcome your questions.**