

Central Arizona Water Conservation District
A Miracle of Unity
by Earl Zarbin

Federal authorization for building CAP came September 30, 1968, when President Lyndon B. Johnson signed the Colorado River Basin Project Act, but the start of construction began years later. This act was just the beginning and a tremendous amount of planning, designing, and studying. There was a simultaneous need for the U.S. Congress to appropriate funds and the Bureau of Reclamation (BOR) to complete plans for construction of CAP. Additionally, the Department of Interior needed assurances that the federal government would be repaid for construction. Providing such assurance for a project of this size was customary, but Arizona political and water leaders perceived no need to act at once. In 1970, Congress appropriated \$1.2 million to begin CAP construction, but the U.S. Office of Management and Budget (OMB), which operates under direction of the U.S. president, refused to release the money "until such time as a project cost repayment contract between the Secretary of the Interior and Arizona water users had been negotiated." Only then did the state's leadership react. Long-standing precedent existed for creating a single water user's organization to contract for repayment with the Interior Department, but Arizona water authorities considered every alternative before enacting legislation that created the multi-county Central Arizona Water Conservation District (CAWCD) on June 16, 1971 to repay the federal government.

Definite steps leading to the CAWCD's founding began December 16, 1970, when Arizonans, the Interior Department, and BOR officials met in Las Vegas, Nevada, to consider contracting guidelines. Arizona's representatives included Wesley E. Steiner, state water engineer and executive director of the Arizona Interstate Stream Commission (AISC); Rich Johnson, executive director of the Central Arizona Project Association (CAPA); state Representative Stan Turley and state Senator Ray Goetze, chairmen of the House and Senate Natural Resource committees, respectively. Discussions resumed February 17, 1971, in Phoenix before a panel created by the AISC, the Water Allocation Advisory Board, and other interested parties. The advisory board was established in January 1970 to propose to the AISC the quantities of Colorado River water potential CAP customers should get. In turn, the AISC would make allocation recommendations to the Interior secretary, who had the final say about how the water would be distributed.

Steiner told the advisory board that because OMB had refused to release CAP money, and because President Richard M. Nixon's budget for the 1972 fiscal year omitted CAP construction funds, "we Arizonans have two tasks that we must accomplish in short order: first, we must complete our water allocation recommendations and, second, we must decide how we wish to organize to contract for CAP water and must prepare and obtain the implementing legislation required, if any is required."

Steiner then introduced Gilbert Stamm, BOR's assistant commissioner for resource management, Lane Morthland, the Interior Department's associate solicitor, and two other federal officials. Stamm, who was to provide organizational and contractual guidelines, agreed that "Water supply is important." But, he said, "The most pressing immediate decisions needed relate, first, to the type of repayment entity or

entities with which the United States should contract, and second, the payment arrangement themselves that will meet the requirement of law and policy." Stamm described three contracting preferences:

- "First, for a single organization geographically covering the service area of the project-- principally Maricopa, Pinal, and Pima counties--with that organization having (property) taxing power. With such an organization a single contract could be entered into with the United States. The single contracting entity would be responsible for repayment of the reimbursable cost of the project; would be responsible for allocating the water available for the Central Arizona Project, and would provide the vehicle to facilitate eventual transfer of operation and maintenance of CAP facilities to water users...
- "The second preference ... would be with several organizations such as one covering each county, Maricopa, Pinal, and Pima; each with taxing power, each with responsibility for allocating water within its jurisdiction, and each collecting revenues to pay its obligation to the United States....It would be possible for the three organizations to form a single board of control, or an operating committee to operate and maintain the system.
- "It has been suggested that the counties themselves as presently organized may have contracting authority,...but of all the repayment contracts the Bureau has entered into over the years we have not,...entered into any contract of this type with a county organization as such...
- "Our third preference... would be to contract for water and repayment with a number of competent existing organizations with taxing or assessment powers such as the City of Phoenix, the City of Tucson, and the Salt River Water Users (Salt River Project). As a prerequisite, this course would require an allocation of water among the potential contractors before repayment contracts could be negotiated."

Morthland advised against "a proliferation of agencies." Besides requiring allocations of water to these entities, he said, it would mean the Interior secretary would have to contract with each of them. Additionally, the authority to make the contracts would probably be tested in court. "Obviously, this would delay the project for a considerable period of time and I think not very much attention should be paid to that possibility," Morthland said.

The morning of the meeting with Stamm and Morthland, a Phoenix newspaper, **The Arizona Republic**, published a story that U.S. Representative John J. Rhodes of Arizona's 1st Congressional District on February 16, 1971, had asked the CAPA "to study advantages and disadvantages of various entity approaches to contracting." In doing that, Rhodes repeated a request he initially had made at a meeting of the CAPA's executive committee January 14, 1971. The executive committee reassembled February 18, 1971, and named R. J. "Brock" Ellis, who practiced law in Phoenix and lived in Coolidge, chairman of an ad hoc water contracting study committee that came to include Johnson; Burr Sutter, a Phoenix attorney; William H. "Bill" Wheeler, an engineer representing the Tucson Chamber of Commerce Water Advisory Committee; J.S. "Ted" Riggins, Jr., attorney for the Salt River Project; and William "Bill"

Stephens, a Phoenix attorney and executive secretary of the Municipal Water Users Association. Steiner and Clifford H. Pugh, the BOR's assistant regional commissioner, served as advisers. Ellis was asked to complete the study by March 1 or sooner.

When the ad hoc committee met February 22, Ellis, evidently heeding the advice of Stamm and Morthland, said the purpose was "To study the feasibility of setting up a single agency to contract for CAP water" so that CAP construction could begin. Nevertheless, the committee took the deliberations to every relevant corner: Did the state have constitutional authority to establish a single agency? Wasn't Arizona being told that the CAP was not feasible unless a property tax was imposed? Since the CAP would be good for all of Arizona, should a property tax be levied throughout the state? Would Phoenix be willing to subsidize the cost of water going to Tucson? Wasn't the "big problem" persuading city residents to pay a property tax they thought was being used to take water to farms? Why not make the AISC the contracting and repayment agency? The ad hoc committee's report was completed and accepted by the CAPA executive committee the morning of March 3 ("reproduction [copying] difficulties" were blamed for missing the March 1 deadline). The ad hoc committee then was instructed to develop "legislation to accomplish the purpose of the report," a copy of which was delivered to Arizona Governor John R. "Jack" Williams, who said he would have the state legislature, then in session, act on it as soon as possible.

Details of the report were not disclosed immediately, but Johnson sent a telegram to Rhodes: "Our study completed today clearly indicates it is feasible and desirable to create a single agency to contract for CAP water." **The Republic** said the ad hoc committee favored a three-county district of Maricopa, Pinal and Pima, but the breadth of the boundaries was left open at the insistence of major cities. Yuma County and some other areas objected to a statewide district. "Others contend the boundaries should be the CAP service area, with special provision for inclusion of water exchange areas," the newspaper said.

Williams provided the report to the press and public on March 4. The report said that while some ad hoc committee members "questioned the need" for a conservation district, the committee "concluded that, by virtue of the position taken by the Bureau of the Budget, the Department of the Interior, the political realities of the situation, etc., the State of Arizona and those supporting the Central Arizona Project should make a sincere effort to comply with the request of the Department of the Interior."

In analyzing the effect of a property tax, the committee said it considered "the spectrum, including imposing "an ad valorem (property) tax large enough to pay the entire construction cost of the Central Arizona Project, and leave to the water users themselves only an annual charge for operation and maintenance. In the other direction, the committee considered \$10 and \$50 charges for irrigation and MI (municipal and industrial) water, respectively, with a lesser tax ranging from six cents per \$100 valuation to 10 cents per \$100 valuation." The committee's major recommendations concerning a conservation district were these:

- It be composed of Maricopa, Pinal, and Pima counties.
- It be governed by a board representative of the three counties on the basis of population and be elected at large in the three counties.
- It be limited to imposing a property tax not to exceed 10 cents per \$100 of assessed valuation to repay construction costs.
- It be authorized to contract with the secretary of the Interior for all water to be delivered by the CAP and to subcontract with water users.

Williams and legislative leaders pledged to act swiftly to set up the conservation district. Meanwhile, the CAPA ad hoc committee was joined by the Arizona Attorney General's office and the Arizona Legislative Council in drafting legislation.

The CAPA executive committee approved a draft of the legislation the morning of March 11 and presented it to Williams in the afternoon. He and legislative leaders said the draft would be taken to Washington, D.C., for review by the BOR before being put into final form for submission to the state legislature: Steiner, Stephens, Riggins and Johnson took the draft legislation to Washington and reviewed it with members of Arizona's congressional delegation March 15. After getting the delegation's approval, the Arizonans met with Morthland and members of his staff, going through the proposed bill paragraph by paragraph, and making "quite a few changes to satisfy Interior," Steiner said. "These changes were largely of an editorial nature and I consider none to be of real substance."

The next day, back in Phoenix, Steiner delivered copies of the revised draft to Turley and to Goetze. Legislation to enable creation of a multi-county conservation district, House Bill 333 (HB 333), was introduced in the House March 17. "It's as clean a bill as we've ever had," Turley said. Key provisions of HB 333 allowed:

- Three or more counties, by resolutions adopted by their boards of supervisors, or by petitions signed by "qualified electors of the county equal to at least one percent of the votes cast for governor" at the last general election, to petition the AISC to form a "multi-county water conservation district."
- Property taxes to be levied by the district in Maricopa, Pinal and Pima counties not to exceed 10 cents per \$100 of assessed valuation. Besides CAP repayment costs, the funds could be used to pay administrative expenses of the district.
- Management of the district by a 15-member board of directors, the directors to "be elected from each county on the basis of one member for each 100,000 people or a major portion thereof." The first board, which would serve until January 1, 1973, would be appointed by the state's governor. Board members would serve four-year terms and be elected in the same year as the U.S. President, which meant the first election would be in November 1972. Ten board members would be appointed from Maricopa County, four from Pima County, and one from

Pinal County.

- Contracts for Colorado River water and for CAP repayment to be made by the district with the secretary of the Interior. The district also was empowered to subcontract water and to establish and to collect water charges.

The Arizona House approved HB 333 by a vote of 59 to 1 on March 25. Casting the opposing vote was Representative Manuel Pena of Phoenix, who said the measure would tax people who would not have water problems for 100 years. The Arizona Senate passed the bill, with two corrections in grammar, by a 30 to 0 vote April 2. The corrections meant the measure had to return to the House for re-approval, which came April 6. The same day, the House sent HB 333 and another bill, House Bill 3 (HB 3), replacing the AISC with the Arizona Water Commission (AWC), to Williams for his signature.

Six days passed before the governor's office announced Williams would sign HB 333 and HB 3 at 9:30 a.m. April 13. Williams characterized enactment of HB 333 as "a miracle of unity in our state." He also said the measure was "a vehicle that puts us in an even stronger position to build the project ourselves if the federal government does not keep faith."

Rhodes hailed news of the impending signing, saying: "As soon as the counties act and the hearings provided by the bill are held and final approval is given to the proposed district we will be able to go to the U.S. Office of Management and Budget and ask for release of funds." The money would have immediate use, because the BOR reported it had completed field engineering for the first construction, which was to include building a water intake channel at Lake Havasu, and preparing a site for the Lake Havasu Pumping Plant. The bureau said it would take at least six months to prepare plans and specifications, which would be followed by a call for bids.

Attending the HB 333 and HB 3 signing ceremony were legislators, mayors, CAPA members, and others. Williams urged the boards of supervisors of Maricopa, Pinal and Pima counties to, submit petitions for a conservation district as quickly as possible.

The afternoon of April 13, the CAPA executive committee met to discuss the means for getting, the supervisors to act. Steiner agreed to send to each board of supervisors in the state's 14 counties a copy of the district law, a suggested resolution, and a petition. The resolution and petition were to be prepared by CAPA and AWC lawyers. Williams would be asked to telephone each board of supervisors to urge the matter be given immediate attention.

Within a few days, the boards of supervisors in Maricopa and Pinal counties scheduled public hearings April 26 to adopt resolutions petitioning the AWC to form a district to be named "Central Arizona Water Conservation District." The Pima County Board of Supervisors scheduled a public hearing May 4.

The resolution won uncontested approval in Maricopa and Pinal counties, but, in Pima County, the board of supervisors heard "some unexpected, intense criticism of the Central Arizona Project (CAP)"

before approving it, **The Tucson Citizen** reported May 5. Another Tucson newspaper, **The Arizona Daily Star**, said opponents, including University of Arizona faculty members, argued that "CAP water, because of high solvent content, would be unfit to drink, that canals and aqueducts might harm the environment drastically, and that other methods, such as trying to solve the water shortage through waste water recycling, should be developed before the CAP gets under way."

Robert L. Coshland, a retired Pima County businessman, contended that money collected through the property tax would be used to subsidize agricultural and mining interests.

Pima County Supervisor James Murphy said this was "the first time I heard a different side," and urged a week's delay in the vote to adopt the resolution. However, he said he favored its passage.

Murphy received no support from the other supervisors, Supervisor Thomas Jay saying, 'If it has gotten to this point where the Pima County Board of Supervisors can make it or kill it, I would like to be on the side to set it up. If it proves in the future we made a mistake, then we made a mistake. But if we find out in the future that we have a lack of water because we didn't pass the resolution then we would be in worse shape. This county is going to need a long-range, dependable water supply.'

Petitions from the three counties in hand, the AWC scheduled a public hearing June 8 on the proposal to form the CAWCD. Meantime, the CAPA executive committee, reacting to a request of Williams, convened May 25 to discuss a list of nominees for appointment to the CAWCD board of directors. Committee members agreed to provide the names of nominees to Johnson, who, in turn, would make them known to all committee members. Johnson also was instructed to write to irrigation and electrical districts urging their representatives to attend and to support CAWCD formation at the AWC hearing.

The Maricopa County Supervisors' Auditorium in downtown Phoenix was the site of the June 8 hearing. As the hearing opened, AWC Chairman George E. Leonard said that the only issue before the commission "is whether or not a single state agency should be created to contract with the federal government for CAP water or whether individual applicants should be left to contract directly with the secretary of the Interior. The feasibility of the CAP is not an issue here. It is not debatable here. In making your comments, we would, therefore, appreciate it if you would limit yourselves to the issue of a single state contracting agency versus a multiple contract with individual applicants." Williams was the first of 41 individuals and groups to testify in favor of creating a single state agency. Opposition came from 18 individuals and groups, many of them ignoring Leonard's, explanation that "feasibility of the CAP is not an issue here." Among groups opposing the CAP and the conservation district's creation were the Arizona Consumers Council, Committee for a Sane Water Policy, Grand Canyon Chapter of the Sierra Club, Tucson and Maricopa County Audubon societies, Arizona Wildlife Research.Council, Arizonans in Defense of the Environment, Inc., and the Arizona Consumer's Council.

The AWC's "Finding and Order" came June 16. The commission said "the public convenience and welfare will be served by the establishment of the proposed multi-county water conservation district." Hence, it

ordered its establishment "under the corporate name of the 'Central Arizona Water Conservation District' by which name it shall be known in all proceedings." Leonard signed the order.

The next order of business was appointment of the first CAWCD board of directors. On June 17, the CAPA executive committee submitted to Williams the names of eight nominees from Pima County and two from Pinal County. Pima County board nominees were selected by the proper parties within Pima County," according to David F. Brinegar, executive editor of **The Star** and a CAPA executive committee member. Pinal County nominations were made by Ellis and Norris, Soma, both CAPA executive committee members. A list of 17 Maricopa County nominees was sent to Williams on June 22; a revised list with 22 names was forwarded June 30. Williams appointed the following people to the board of directors between July 2 and 9:

From Maricopa County:

- Germain H. Ball, farmer, and member of the Salt River Project Board of Governors and Board of Directors since 1960.
- G. Clarke Bean, chairman of the board and chief executive officer of the Arizona Bank.
- Tom Chauncey, president and part owner of KOOL-TV, and past president of the Phoenix Committee Council.
- Roger Ernst, land and water consultant, Arizona Public Service Company; former Arizona land commissioner and state engineer; assistant secretary of the Interior for Public Land Management in the administration of President Dwight D. Eisenhower, and member of the National Water Commission.
- Virgil Katterhenry, manager of the Federal Land Bank Association of Phoenix since 1950, and past president of the Phoenix Elementary School District Board of Trustees.
- Ray Killian, farmer and rancher; executive secretary of the Arizona Interstate Stream Commission, 1948-1965, and former secretary and manager of the Roosevelt Water Conservation District.
- Dr. Glenn Overmann, dean of the College of Business Administration at Arizona State University, and past president of the Arizona Business Industry Council.
- Dwight Patterson, Mesa area farmer; member of the Arizona Power Authority, and president of the Maricopa County Community College District Governing Board.
- Frederick R. Stofft, chairman and president, PBSW Corporation; major general, Arizona National Guard, and a director of the Arizona Bank and Mountain Bell Telephone Company.
- Dr. Morrison F. Warren, professor at Arizona State University; a former member of the Phoenix

City Council, and former principal of Booker T. Washington Elementary School.

From Pima County

- Walter D. Armer, Tucson rancher and business consultant.
- Dan Clarke, Tucson area farmer; former banker, and a director of the American Association of Soil and Water Conservation Districts.
- Dr. Quentin Mees, former professor and head of the Civil Engineering Department at the University of Arizona.
- John S. Sullivan, Vail, owner of the La Posta Quemada cattle ranch.

From Pinal County:

- Howard Wuertz, Coolidge farmer, and school board member.

Williams asked Ernst to serve as chairman of the group's organizational meeting, which occurred July 19 in the AWC hearing room at 34 W. Monroe, Phoenix. With 13 of the appointees in attendance, Ernst was elected president of the board of directors, Patterson vice president, and Armer secretary. At the request of Williams, the board voted not to impose a property tax in its first year of operation, and to use services of the AWC in its role of contracting with the Interior secretary for Colorado River water.

On July 21, Ernst wrote to Secretary of the Interior Rogers C. B. Morton giving him official notification of the establishment of the CAWCD, and saying, "The District is now ready and anxious to proceed with negotiation of a contract for water supply from the Central Arizona Project."

Two days later, Ernst sent a letter to Patterson to express appreciation for "the honor of serving as your Board President for the first term." "Already I am enjoying the peripheral benefits by getting stuck for \$48.00 for a Post Office Box so we have a home," Ernst wrote. "Running a business without any money is going to be intriguing. I think it only proper that an outfit which is to eventually find itself in the position of guaranteeing a billion-dollar loan should spring from such a horrible beginning."