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COMMITTEES:
APPROPRIATIONS
Chairman
EDUCATION
WAYS & MEANS

DISTRICT 5

Arizona House of Representatives
Phoenix, Arizona 85007

JOINT LEGISLATIVE BUDGET
JOINT COMMITTEE ON CAPITOL REVIEW

June 30, 2020

Via E-mail: sscantlebury@azwater.gov
Director Tom Buschatzke
Arizona Department of Water Resources
Attn: Sharon Scantlebury, Docket Supervisor
P.O. Box 36020
Phoenix, Arizona 85067-6020

Re: Legislative District 5 Rebuttal to Town of Queen Creek and GSC Farm, LLC
Applicant's Response to Public Comments filed on May 7, 2020

Dear Director Buschatzke:

The Department of Water Resources ("Department"), by communication dated February 10, 2020 afforded GSC Farm, LLC and the Town of Queen Creek ("Applicants") 90 days under the Transfer Policy for the limited purpose "to review the public comments in detail and to attempt to address any concern of negative impact from the proposed transfer action that have been expressed." The Applicants were advised that they must inform the Department of their attempts to resolve and/or respond to any claims of negative impacts from the proposed transfer action.

The Applicants are well aware of the elected officials representing Mohave County that they should have spoken to. This Delegation's members have made their positions quite well known during the Department's public process. Representative Regina Cobb testified at three of the four public hearings. Representative Leo Biasiucci was out of the Country when the public hearings were held and he still filed comment letter # 1. Finally, Senator Sonny Borrelli prepared a specific opposition letter detailing the history of Priority 4 water reserved to the River Communities. Please see the enclosed Attachment A compiling the testimony and comments of the District 5 Delegation who participated in the Department's public process.

Instead of using their time to meet with and discuss the concerns of these elected officials opposed to the transfer, the Applicants asserted a number of specious claims that now must be addressed. Each of the claims that we wish to address are highlighted below followed by our rebuttal to their claims.

Page 5, Section III.A. The Town of Queen Creek is Seeking a Sustainable Water Supply

The Town is not “seeking a Sustainable Water Supply,” the Town is seeking aggressive economic growth (\$307 million by Applicants’ own estimates) and state shared revenues (\$4.4 million) while compensating the out-of-state investors in GSC Farms, LLC with a windfall of \$20 million for selling water they do not own but is owned by the citizens of the United States. Such windfalls cannot be the policy of the State of Arizona and surely that is not the policy of the Department of Water Resources that long ago reserved this water for the River Communities in Western Arizona.

Pages 9-12, Section IV, The 15 Comments in Support of the Transfer

The Applicants did not engage in any negotiations with any of the over 850 commenters opposed to the transfer during the 90 day negotiation period, and the Applicants cover letter explains why on page 2,

paragraph 1: “But none of these comments are subject to mitigation or resolution without destroying the fundamental benefits of this proposed transfer.” Of course, because the Applicants want to sell and buy the water and transfer it to Central Arizona.

Pages 13 to 16, Section V.1, The 164,652 acre-feet of Arizona Co-Equal 4th Priority water was NOT “Reserved” for on-river use in the 1988 Central Arizona Project Master Contract

The Applicants misconstrue or misstate the reservation. The master contract does not “reserve” the water. The State of Arizona reserved the water for the River Communities over a period of years out of its entire 2.8 million acre-feet. The master contract simply documents this reservation. GSC Farm, LLC, a Delaware limited liability company, does not own the 4th Priority Water they seek to sell and transfer to the Town. The State of Arizona made this reservation in conjunction with the Bureau of Reclamation back in the 1970s.

Pages 16 to 19, Section VI, The GSC Contract Expressly Contemplates Transfers

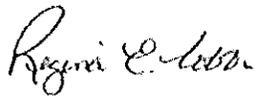
The Secretary of the Interior is indeed the “Water Master” of the Colorado River under the Boulder Canyon Project Act, but the Secretary is loath to transfer the point of use of water inside a state contrary to the wishes of the State and without the

consent of nearby Colorado River users. The Applicants apparently seek to transfer this water 200 miles over the nearly unanimous opposition of Arizona's Colorado Communities.

Pages 22 to 25, Section VIII, Municipal Water Providers in Mohave, La Paz and Yuma Counties Already Have Substantial Allocations of Water for Future Municipal Growth

The impact on the River Counties will be the subject of a detailed inquiry under the National Environmental Policy Act should any request by the Applicants ever be filed with the Bureau of Reclamation and the Secretary of the Interior. This inquiry will demonstrate the full impact on the River Communities. There is no doubt that the River Counties will seek a full Environmental Impact Statement under NEPA to assess all the adverse environmental, social and economic consequences of the loss of 2,083.1 acre-feet of water from the River Communities to the Town of Queen Creek - a Town over 200 miles away from the River.

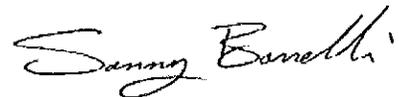
Sincerely,



Regina E. Cobb, District 5
Representative



Leo Biasiucci, District 5
Representative



Sonny Borrelli, District 5
Senator

cc: The Honorable Doug Ducey, Governor of Arizona
Commissioner Brenda Burman, Bureau of Reclamation

Legislative District 5
 Mohave County and La Paz County
 and
 County Supervisors Association
 In Opposition to the
 GSC Farm LLC/Queen Creek
 Colorado River water transfer application

Name	Position	Speaker	Written Comments
Sonny Borrelli (R)	Senator Majority Whip		#39

The long legal history of this particular allotment of Colorado River water dates back to the predecessor agency to the Arizona Department of Water Resources (DWR). The Arizona Water Commission specifically authorized the reservation 164,652 acre-feet of Fourth Priority Colorado River Water to the river communities. DWR recognized this reservation in a strongly worded statement in 1990 that "this water is to be reserved for future M&I use along the river... it is not to be considered as supplies available for any other purpose." Denying this transfer keeps the Department's position consistent, which is vital for its credibility.

Further, Greenstone mistakenly believes they have a property right to the water they want to transfer. They do not. They have a contract for the water's use on its Cibola land in La Paz County with the Bureau of Reclamation. Nowhere does this contract authorize Greenstone to transfer this water to Central Arizona. This is not a surface water right that they can sever and transfer. Federal law and the Bureau control the water.

Perhaps my most passionate argument rests in the damage this transfer will cause for the people of my district and inevitably all of rural Arizona if it goes through. That water is the economic lifeblood of the river communities and once it is gone, it will never return. If the Department breaks with precedent and allows the water to leave this or any rural region, those communities will begin fading away. Those residents, my constituents, who have made their lives in those areas, will be forced to relocate due to the dire economic consequences that will occur if this transfer happens. (#39)

Regina Cobb (R)	Representative Chairman House Appropriations Committee	Phoenix 11/19/20 Bullhead City 11/20/20 Parker 11/20/20
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I am emphatically opposed to the proposal before us today whereas Greenstone and Queen Creek propose to transfer a 20,088 -- or 2,088 acre-feet of the 4th priority waters into Central Arizona. I feel these transfers are destructive to the state and will create a large divide within our state. The Colorado River allocation was granted over 40 years ago in rural Arizona communities for their later development. Now you are allowing powerful, inherent interests to seep into that decision. Companies are free to invest in rural Arizona and are welcome, and I do welcome all their investments, but I do not welcome their investments solely to transfer water away from rural Arizona. Central Arizona already reserved over 90 percent of the Arizona 4th priority rights and now it has come for the last 10 percent. I cannot see this as anything more than arrogant and greed. As specifically -- as specifically reserved, 164,652 acre-feet or 9.89 percent of 4th priority for Arizona Colorado River communities should be left in Colorado -- in the Colorado River communities. In a letter dated February 28th, 1990, to Bureau of Reclamation from ADWR, the Department takes a position that it is in an equivocal position, the water is to be reserved for future M&I on the river. (Phoenix)

It was very difficult finding anything out about this company. It's a company out of Delaware. They are a water broker. They purchase properties, 450 acres in 2008, and then they purchased them again in 2000 -- another 40 acres in 2014, and then they also went in with El Mirage as a -- as a company that they went together and bought extinguishing -- extinguishing credits, and I think have sold those since, but there was about 29,000 plus extinguishing credits bought for \$150. So that's what they're doing. They're selling water. They're brokering water. They're not coming into our communities. They're not investing in our communities. (Bullhead City)

Name	Position	Speaker	Written Comments
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The other thing that he also pointed out is is that they will tell you it's not going to open up the floodgates. Who do you think is going to come in and who do you think is going to want to -- to not want to try to get their 4th priority rights taken off of the Colorado River and going into Central Phoenix or Central Maricopa County. They're all going to want to do that. (Parker)

Leo Biasiucci (R)	Representative		#1
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On behalf of the majority of my constituents in Legislative District 5, I voice my strong opposition to the proposed transfer of 2,088 acre-feet of Fourth Priority Colorado River water by GSC Farm, LLC ("Greenstone") to the Town of Queen Creek in Central Arizona via the Central Arizona Project canal. The reason for my opposition is relatively simple: this water belongs to the river communities. . . .Therefore, I urge the Department to follow the established precedent and reject this transfer; it represents far more than 2,088 acre-feet. (#1)

County Supervisors Association of Arizona

Russell McCloud	President County Supervisors Association		#3
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Resolution Opposing the Permanent Transfer of Any Fourth Priority Colorado River Rights not supported by Maricopa, Pima, or Pinal			#3
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NOW THEREFORE, BE IT RESOLVED, that the County Supervisors Association of Arizona does hereby oppose the permanent transfer of any Fourth Priority Colorado River Water rights or allocations designated to the Colorado River Communities of Arizona to the Central Arizona service area for use by any other entity. (#3)