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ARIZONA DEPARTMENT OF WATER RESOURCES
PUBLIC COMMENT MEETING ON
PROPOSED TRANSFER OF ARIZONA 4th PRIORITY
COLORADO RIVER WATER:
GSC FARM LLC TO THE TOWN OF QUEEN CREEK

* * *

Phoenix, Arizona
November 19, 2019
10:00 a.m.

Prepared by:
Dorothy A. Schulte, RPR, CCR
Certificate No 50459

PERFECTA REPORTING

602-421-3602

S P E A K E R I N D E X

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<u>SPEAKER:</u>	<u>PAGE:</u>
Regina Cobb.....	14
Gary Watson.....	16
Grady Gammage.....	18
Michael Pearce.....	21
Paul Gardner.....	23
Cole Libera.....	25
Michael Curtis.....	27
Jamie Kelley.....	29
Spencer Kamps.....	31
Senator Otondo.....	33
Wade Noble.....	35
Mayor Barney.....	37
Patrick Cunningham.....	38

P R O C E E D I N G S

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4 MS. KARTHA: Good morning. For the
5 record, today is Tuesday, November 19th, 2019, and the
6 time is 10 a.m. We are at the Arizona Department of
7 Water Resources in Phoenix, Arizona. My name is
8 Vineetha Kartha. I am the Manager for the Colorado
9 River Section at the Arizona Department of Water
10 Resources, and I will be facilitating today's meeting.

11 With me are Clint Chandler, Assistant
12 Director; Douglas McEachern, Communications
13 Administrator; Sharon Scantlebury, Docket Supervisor;
14 and Amy Levy, Water Resources Specialist. Also with me
15 today from the Department is Tom Buschatzke, the
16 Director of the Department of Water Resources.

17 Because ADWR is the entity that makes the
18 recommendation to the Secretary of the Interior, the
19 Director is here to listen to your comments and observe
20 the proceeding but will not be making comments or
21 responding to any inquiries.

22 We have a court reporter here today to record
23 the comments. As such, it is very important for the
24 speakers to please speak up and speak slowly so that
25 the court reporter can accurately record your comments.

1 If anyone has any difficulty hearing me or a speaker,
2 please do let me know.

3 If you haven't already done so, please sign
4 the sign-in sheet on the table near the entrance.
5 There are also speaker cards available on the table.
6 If you desire to speak today, please fill out a speaker
7 card and submit your card to Sharon Scantlebury.

8 The purpose of today's meeting is to provide
9 members of the public with the opportunity to make oral
10 or written comments on the pending application for the
11 proposed transfer of the GSC Farm LLC's 4th Priority
12 Colorado River Water Entitlement to the Town of Queen
13 Creek.

14 Pursuant to the Department's substantive
15 policy statement entitled "Policy and Procedure for
16 Transferring an Entitlement of Colorado River Water,"
17 the Department advertised the proposed transfer on
18 November 7th and November 14th, 2019, in Arizona
19 Republic, a newspaper of general circulation within the
20 state of Arizona.

21 The application is also available on the
22 Department's website at:
23 www.new.azwater.gov/public-notice/proposed-transfer-gsc
24 -farm.

25 The Department's substantive policy statement

1 states that the Department will accept comments on a
2 proposed transfer for 30 days following the second
3 advertisement of the proposed transfer. Because the
4 30th day following the second advertisement of this
5 proposed transfer is a Saturday, comments will be
6 accepted until 5 p.m. on the following Monday, which is
7 Monday, December 16th, 2019.

8 The Department will also be holding meetings
9 at the City of Bullhead City, the Town of Parker and
10 the City of Yuma to provide members of the public
11 additional opportunities to make oral or written
12 comments on the proposed transfer. The times and
13 locations of those meetings are shown on the
14 Department's website at the address mentioned
15 previously.

16 Today's meeting will be conducted in a formal
17 manner. As I mentioned previously, a court reporter is
18 recording all the statements. A copy of the transcript
19 will be available for review at the Department's office
20 and also posted on the Department's website when it is
21 available. Please be aware that the Department will
22 not be responding to questions or comments at today's
23 meeting. If anyone has any questions or comments on
24 issues or programs that are outside the scope of
25 today's meeting, you can contact either me or one of

1 our staff members after the meeting.

2 At the conclusion of the meeting, I will be
3 accepting any written comments or documentary evidence
4 that anyone may wish to submit to the Department
5 regarding this pending application. The Department
6 will also accept written comments until 5 p.m.,
7 December 16th, 2019.

8 The written comments should be submitted to
9 the Department's Docket Supervisor, Sharon Scantlebury
10 by email to sscantlebury@azwater.gov or fax at
11 602-771-8686. A copy of the public notice with
12 Sharon's contact information is posted on the
13 Department's website. Sharon's business cards with her
14 contact information are available at the sign-in desk
15 if you would like one.

16 Within 60 days from December 16, 2019, the
17 Director of ADWR will issue a recommendation regarding
18 the proposed transfer to the United States Secretary of
19 the Interior, unless additional time is needed to
20 resolve claims of negative impacts to third parties.

21 Some entities or individuals may claim that
22 they will be negatively impacted if the proposed lease
23 and transfer is approved. If potential negative
24 impacts are claimed, the Department will notify GSC
25 Farm, LLC, and the Town of Queen Creek about the

1 claimed impacts.

2 Upon notification of the claims, the
3 Department will provide up to 90 days for all parties
4 to attempt to resolve or mitigate the claimed impacts
5 and to provide information to the Secretary. If agreed
6 by all parties, an extension may be granted if more
7 time is needed to resolve the outstanding issues.

8 I will now describe the proposed transfer in
9 greater detail.

10 So my presentation today is roughly divided
11 into three sections. I will provide an overview of the
12 Department's authorities, followed by an overview of
13 the Substantive Policy Statement, the policy statement
14 that guides the transfers of mainstream Colorado River
15 water.

16 And, finally, I'll provide key details of the
17 proposed transfer from GSC Farms to the Town of Queen
18 Creek.

19 So pursuant to Arizona Revised Statute at
20 45-105, the Director is responsible for the management
21 of and also for formulating plans and programs for the
22 development, conservation and use of surface and
23 groundwater throughout the state.

24 Pursuant to State Statute 45-107, the
25 Director is to serve as the State's representative in

1 matters relating to the State's interests in Colorado
2 River, specifically the Director is authorized on
3 behalf of the state of Arizona to consult, advise and
4 cooperate with the Secretary of Interior on --
5 Secretary of Interior of the United States on matters
6 relating to Colorado River water.

7 In that regard, the Department of Resources
8 is the entity charged with promoting, protecting and
9 comprehensively managing Arizona's 2.8 million
10 acre-feet of Colorado River entitlement.

11 Consistent with these responsibilities under
12 State Statute at 45-107, entities that contemplate the
13 transfer of their entitlement are required to
14 cooperate, confer and obtain the advice of the Director
15 of the Department.

16 Due to the importance of the distribution of
17 Colorado River water to the welfare and economy of the
18 state and because in most cases mainstream water is the
19 only dependable supply of water for urban, industrial
20 and agricultural water users, the Department adopted
21 Substantive Policy Statement CR10 to ensure adequate
22 and consistent evaluation of any proposed transfer of a
23 Colorado River entitlement.

24 The policy statement establishes a policy and
25 procedure for transferring an entitlement of the

1 Colorado River water including leases. The policy
2 statement also describes the criteria and analysis the
3 Department will utilize to evaluate proposed transfers,
4 including conveyances, leases or assignments, of
5 mainstream Colorado River water.

6 After all the necessary documents have been
7 submitted, conveyance and lease actions are subject to
8 a public notice process. The public notice process
9 includes advertising the proposed transfer once a week
10 for two consecutive weeks in a newspaper of general
11 circulation within the state. The Department will also
12 provide a notice to the County Planning and Zoning
13 Department office within the county of origin.

14 The contractor conveying its entitlement must
15 provide notice to all water users within its contract
16 service area. The Department also maintains a list of
17 interested parties, and notices were sent to entities
18 on this list as well.

19 The newspaper advertisement in this
20 particular case was posted on the Arizona Republic on
21 November 7 and November 14 and a notice was sent to the
22 La Paz County Planning and Zoning Department.

23 The Director will review any proposed
24 transfer by a non-Federal Arizona contractor of the
25 Colorado River entitlement for the purpose of

1 determining the potential impacts caused by the
2 redistribution of water.

3 During the review of an application, the
4 Director will consider several factors including
5 potential negative impacts to the water supplies of
6 other Colorado River entitlement holders, water quality
7 impacts to the water supplies of other Colorado River
8 entitlement holders, and water quality impacts related
9 to return flows and other pertinent impacts that could
10 occur as a result of the proposed transfer.

11 Public comment is also considered during the
12 Department's review. The Director will issue a
13 recommendation within 60 days from the end of the
14 comment period unless additional time is needed to
15 resolve claims of negative impacts to third parties.
16 If there are claims of negative impacts, the Department
17 will provide up to 90 days for all parties to resolve
18 or mitigate claimed impacts. An extension may be
19 requested.

20 This slide provides a snapshot of the
21 transferring entity, GSC Farm, LLC. GSC Farm, LLC, is
22 located within La Paz County, Arizona. GSC Farm
23 currently holds a Section 5 contract with the U.S.
24 Bureau of Reclamation for a Colorado River Arizona 4th
25 Priority Diversion Entitlement of 2,913.3 acre-feet per

1 year.

2 GSC Farms owns around 504 gross acres of
3 land, out of which 485.5 acres are irrigable acres.
4 Based on the information provided to the Department by
5 GSC Farm, all the irrigable acres are currently being
6 irrigated annually.

7 GSC Farm is proposing to transfer a
8 consumptive use volume of 2,083.1 acre-feet. This
9 quantification is based on an unmeasured return flow
10 factor of 28.5 percent. If the Colorado River water
11 entitlement is transferred from GSC Farm, these lands
12 will be retired from agricultural production.

13 Oh, one thing I forgot to mention, future
14 water supplies that may be available to these lands
15 include Cibola Valley Irrigation and Drainage District,
16 which holds 300 acre-feet per year of 4th priority
17 entitlement for domestic uses, which could potentially
18 serve as a water supply for development of the land in
19 the future.

20 The Town of Queen Creek is a receiving entity
21 located within Maricopa and Pinal Counties. The
22 request for consultation states that the Town of Queen
23 Creek's current annual demand is 15,100 acre-feet.
24 Queen Creek fulfills these demands through a
25 groundwater supply of 42,421 acre-feet, a CAP water

1 supply of 495 acre-feet and an effluent supply of 2,000
2 acre-feet. Queen Creek's future demand is expected to
3 be 43,500 acre-feet.

4 In addition to the proposed transfer of
5 Colorado River water, the request for consultation
6 states that Queen Creek's foreseeable future water
7 sources include an additional 4,100 acre-feet of CAP
8 water and 8,000 acre-feet of effluent supplies.

9 Queen Creek is proposing to store the
10 transferred water within the Roosevelt Water
11 Conservation District and recover water within Queen
12 Creek's service area. The proposed transfer will
13 change the place of use, type of use and the point of
14 diversion.

15 The request for consultation that was
16 submitted by GSC and Queen Creek also includes other
17 supporting documents including a purchase agreement as
18 well as Section 5 contracts. These documents are
19 available for viewing and downloading on the
20 Department's website.

21 This concludes my presentation on the
22 proposed transfer. Now we shall move on to the public
23 comment segment of the agenda.

24 As I mentioned earlier, the purpose of
25 today's meeting is to provide members of the public

1 with the opportunity to make oral or written comments
2 on the pending application for the proposed transfer of
3 GSC Farm, LLC's 4th Priority Colorado River Water
4 Entitlement to the Town of Queen Creek.

5 We, therefore, want to ensure that every
6 person who wishes to speak today has an opportunity to
7 be heard, so I will ask that one person -- only one
8 person speak at a time. All speakers should use a
9 microphone and give their name and affiliation.

10 All comments should be addressed to the
11 Arizona Department of Water Resources, should be
12 relevant to the application, and should be respectful
13 of the process.

14 Each speaker will be allowed no more than
15 three minutes so everyone has an opportunity to speak.
16 Time allotted for public comments can be used most
17 efficiently by selecting a single representative to
18 speak on behalf of a group or organization.

19 Please be respectful and allow the speaker to
20 proceed without interruptions. This will allow us all
21 to hear and listen to each other's comments and for the
22 court reporter to accurately capture today's dialogue.

23 I will now begin calling names of the
24 individuals who submitted speaker cards. If you wish
25 to speak and have not filled out a speaker card, please

1 fill out one of the cards on the table near the
2 entrance and provide your card to Sharon.

3 When I call your name, please come up to the
4 podium, state your name, identify any person or entity
5 that you represent and then give your comments.

6 The first name is Arizona State
7 Representative Regina Cobb.

8 MS. COBB: Good morning. I love leading
9 us off today. For the record, I'm Representative Cobb
10 with District 5. I represent Mohave and La Paz
11 Counties, so this is my district.

12 I appreciate the opportunity to be able to
13 address and make public comments today. I want to
14 thank Director Buschatzke for holding the meetings and
15 allowing those meetings to also be done in the
16 communities where they're going to be affected.

17 I am emphatically opposed to the proposal
18 before us today whereas Greenstone and Queen Creek
19 propose to transfer a 20,088 -- or 2,088 acre-feet of
20 the 4th priority waters into Central Arizona.

21 I feel these transfers are destructive to the
22 state and will create a large divide within our state.
23 The Colorado River allocation was granted over 40 years
24 ago in rural Arizona communities for their later
25 development.

1 Now you are allowing powerful, inherent
2 interests to seep into that decision. Companies are
3 free to invest in rural Arizona and are welcome, and I
4 do welcome all their investments, but I do not welcome
5 their investments solely to transfer water away from
6 rural Arizona.

7 Central Arizona already reserved over
8 90 percent of the Arizona 4th priority rights and now
9 it has come for the last 10 percent. I cannot see
10 this as anything more than arrogant and greed.

11 As specifically -- as specifically reserved,
12 164,652 acre-feet or 9.89 percent of 4th priority for
13 Arizona Colorado River communities should be left in
14 Colorado -- in the Colorado River communities.

15 In a letter dated February 28th, 1990, to
16 Bureau of Reclamation from ADWR, the Department takes a
17 position that it is in an equivocal position, the water
18 is to be reserved for future M&I on the river.

19 This is not the first attempt for these
20 transfers. After priority water in some -- there has
21 been transfers tried in the -- in -- to get the 4th
22 priority water into Central Arizona.

23 CAWD(sic) Board heard the communities in 2017
24 and '18 and decided to discontinue that -- that -- that
25 transfer. If the proposal is approved, it will set up

1 a precedent for future transfers, and again setting up
2 water would be kind of the civil war in the state of
3 Arizona.

4 I am -- I know that I'm out of time here.
5 You will plan on seeing me for the next three days, so
6 you will hear more about this from me, and you'll get
7 tired of seeing this face, so I just want to say please
8 do not approve this, and I request that from the County
9 of Mohave -- Yuma and Mohave Counties. Thank you.

10 MS. KARTHA: Next we have Gary Watson,
11 Mohave County Supervisor for District 1.

12 MR. WATSON: Good morning. For the
13 record, I am Gary Watson. I've been the chair and vice
14 chair a number of times in Mohave County. I represent
15 District Number 1. I want to thank Director Tom
16 Buschatzke and the Department for conducting this
17 meeting today, the comment process regarding the
18 proposed transfer and holding meetings in Bullhead City
19 and Parker and in Yuma. Thank you very much.

20 As for the Greenstone and Town of Queen
21 Creek's proposed transfer of 2,088 acre-feet of Arizona
22 4th priority Colorado River water entitlement to
23 Central Arizona, the Town of Queen Creek, I'm before
24 you today to rise up against that.

25 The Arizona Department of Water Resource's

1 Director, Tom Buschatzke, reiterated Mohave County's
2 position as a matter of public policy. Mohave County
3 opposes a transfer of 4th priority Colorado River
4 water. It's already been allocated to communities
5 along the river for use up and down, north and south on
6 the river corridor.

7 It is the transfer of the water away from
8 this mainstream, east or west of the river, that Mohave
9 County must oppose by all means and also as long as it
10 takes.

11 Of course, this is not the first time that
12 the transfer of 4th priority water rights has been
13 attempted. I wish to recognize the Central Arizona
14 Water Conservation District and their Board of
15 Directors. Those directors heard our voices in 2017,
16 2018, and they decided by unanimous vote in June of
17 2018 to withdraw from a proposed purchase and sale
18 agreement to require a water contract from the company,
19 Water Asset Management, and inside Mohave County
20 Irrigation and Drainage District. Those are in Mohave
21 County.

22 Also the Town of Quartzsite has attempted to
23 lease their 4th priority water. And this Department
24 did not give a favorable agreement to that
25 recommendation.

1 And so here I am today and I'm asking you
2 again to recommend disapproval to the Department of
3 Interior and at the Bureau of Reclamation of this
4 proposed transfer by Greenstone in its contract with
5 the Bureau of Reclamation to the Town of Queen Creek in
6 the form of a new contract issued by the Department of
7 Reclamation.

8 There are other water resources available for
9 Queen Creek, and we ask that those resources be
10 investigated and not take water, 4th priority water,
11 from the river communities.

12 We received a letter from the Grady Gammage
13 people, and they did an economic analysis of what this
14 transfer will do to Mohave County and benefit the Town
15 of Queen Creek. They'll benefit by 307 million
16 dollars.

17 MS. KARTHA: Mr. Watson, your time is
18 up, but we could definitely take your letter.

19 MR. WATSON: While La Paz County gets
20 12,000 dollars. Quite a trade.

21 Thank you. Thank you very much.

22 MS. KARTHA: Our next speaker is Grady
23 Gammage.

24 MR. GAMMAGE: Thank you, Ms. Kartha. My
25 name is Grady Gammage, Junior. My address is 2 North

1 Central in Phoenix. I am an attorney for GSC Farms.
2 We're here today because this is a process that was
3 created to evaluate individual transfers. If, as you
4 will hear from many people, transfers from the river
5 should be completely prohibited, we wouldn't need this
6 process. We have this process to try to evaluate
7 transfers like this.

8 When you make that evaluation in this case,
9 you will conclude that this transfer is in the best
10 interests of all of Arizona. The factors that you
11 weigh are such things as will the water be put to
12 immediate beneficial use, has the water been used in
13 the past, will it negatively impact treaties we have
14 with Mexico and others. Under all those criteria, this
15 is beneficial to all of Arizona.

16 GSC's right was established by individual
17 transfers from the river going back into the 1950s. It
18 is held by a private entity, not by a public entity or
19 a quasi public entity like an irrigation district. It
20 is now memorialized in a 5th priority -- a 5th Section
21 contract with the Bureau of Reclamation, but it's a
22 private water right that goes back for a very long
23 time, and that private right is GSC's to figure out
24 what to do with.

25 You will also hear that this might -- in

1 fact, in the morning paper -- this might open
2 floodgates for transfers. This is a relatively unusual
3 circumstance. Of all water that is on the river only
4 about 15,000 acre-feet is held in private hands like
5 this right. That's about one percent. Hardly a risk
6 of floodgates.

7 The references you will also hear to this
8 water having been permanently reserved for urban use on
9 the river are incorrect. That is simply factually
10 inaccurate. The context of a letter that is constantly
11 written is quite different than -- than is represented
12 by people opposed to this transfer, but the reality is
13 that a letter like that cannot result in simply wiping
14 out a private water right or private contractual right.

15 This right is good for all of Arizona for
16 several reasons. First of all, Queen Creek is a city
17 that has very small CAP allocation. It is trying to do
18 the responsible thing and get off of the GRD and off of
19 groundwater pumping and onto renewable water supplies.

20 Secondly, Cibola is a very unique and unusual
21 place. To get there you have to drive into California.
22 You go to Blythe, turn left and go down. You can't get
23 there from Arizona. All of the current economic
24 benefit from the farming on this property flows into
25 California.

1 What you are looking at here functionally is
2 really California water. This water is used for the
3 economic benefit of California, not Arizona.

4 Third, another thing as referenced in Joanna
5 Allhands' column in the morning paper, which is that in
6 this case the water is being transferred without the
7 ownership of a land being transferred. That's actually
8 a benefit and something that is unusual here because it
9 means that the land remains in private hands, people
10 who have an incentive to develop it and --

11 MS. KARTHA: Mr. Gammage, your time is
12 up.

13 MR. GAMMAGE: Thank you.

14 MS. KARTHA: Next we have Mike Pearce.

15 MR. PEARCE: Thank you, Ms. Kartha,
16 Director Buschatzke, for allowing us to make comments.
17 My name is Michael Pearce. I represent both the GSC
18 Farm and the Town of Queen Creek in attempting to
19 facilitate this transfer, and I would like to say this
20 morning that this transfer, in my mind, represents all
21 that is good about Arizona water management.

22 Arizona has always been a beneficial use
23 water state, prior appropriation. Beneficial use is
24 the major and a limit of the right. Here we're
25 proposing a transfer from one beneficial use to

1 another, what many would consider to be a very noble
2 use of the water to displace groundwater pumping in
3 Central Arizona.

4 These types of transfers are authorized by
5 Arizona Department policy and the protocol for
6 evaluating the transfers is, as Mr. Gammage said, quite
7 elaborate and quite fair. It looks at all of the
8 impacts.

9 There's been much talk about the fact that
10 this water cannot transfer at all because it is somehow
11 reserved for some future and highly speculative use.
12 That has never been the law of the State of Arizona.

13 Going back to 1901, in the early case of
14 Slosser versus Salt River Valley, the court made clear
15 that the water right holder was free to transfer water
16 according to its needs. In fact, the court said
17 natural justice -- natural justice, therefore, is
18 subserved by recognizing the right of the water holder
19 to change his appropriation or to sell his right to
20 another, to be used by the latter for beneficial use
21 recognized by the statute. That is the law of Arizona.

22 Speaking specifically to the 164,562 that was
23 created by the 1988 contract with the Central Arizona
24 Project and the United States Bureau of Reclamation, it
25 says that this 164,000 acre-feet shall be available for

1 water users in Arizona, entered into by contracts on
2 Federal, State or privately-owned lands in Arizona.

3 It goes on to say nothing herein shall limit
4 the right of the secretary to make that entitlement
5 available to other water users in Arizona. These words
6 are important. This is where the 4th priority water
7 comes from. These words have meaning. There's no
8 mention of river communities and there's no allocation
9 of this vast quantity of 164,000 acre-feet of water to
10 some undisclaimed, unrecognized area of the state known
11 vaguely as the river communities.

12 I would ask that the Department consider this
13 carefully and recommend approval of this transfer from
14 GSC Farm to the Town of Queen Creek. Thank you.

15 MS. KARTHA: Next we have Paul Gardner.

16 MR. GARDNER: I'm Paul Gardner. I'm
17 with the Town of Queen Creek. I'm the Utility Director
18 for the town. I thank the Department for holding these
19 meetings. I've told people, if they want to know where
20 I'm going for the next couple of days, I'm telling them
21 I'm starting my river trip, and they think, well, how
22 great that is, how fascinating that must be.

23 As a young community incorporated in 1989,
24 the Town of Queen Creek is limited in the ability to
25 access certain infrastructure resources available to

1 other valley municipalities, requiring the town to
2 pursue alternative avenues for important capital
3 investments like roads and water.

4 As has been mentioned, we have a very robust
5 amount of CAP water allocation of 495 acre-feet. We
6 have a recommendation from this Department of 4,100
7 acre-feet of NIA CAP water, which was recommended in
8 2014, and we're still waiting.

9 The Town of Queen Creek is developing a
10 multi-facet approach for assuring long-term
11 generational access to water.

12 One element of the overall strategy is the
13 proposed purchase of water rights from a property
14 owner, GSC Farms, located in Cibola, Arizona. Through
15 an agreement with Roosevelt Water Conservation District
16 and permitted recovery wells, the town has the
17 immediate ability to use the transfer of water through
18 storing and recovering it, offsetting groundwater use
19 with renewable water.

20 The transferred water will help the town
21 minimize its reliance on groundwater, preventing nearly
22 200,000 acre-feet of groundwater from being pumped over
23 the next 100 years, benefiting current and future
24 generations.

25 Reducing the reliance on groundwater with

1 renewable water is the intention of the Groundwater
2 Management Act.

3 While the town has the legal right to
4 continue to pump groundwater, to transfer -- this
5 transfer will help the town be good stewards of water
6 and leave as much groundwater as possible and move us
7 closer as a town to safe-yield, which is the State of
8 Arizona's mandate in the Phoenix AMA.

9 We'd appreciate the consideration of this
10 process and of the transfer of this water from GSC
11 Farms to the Town of Queen Creek. Thank you.

12 MS. KARTHA: Next we have Cole Libera.

13 MR. LIBERA: Good morning. My name is
14 Cole Libera. I'm here on behalf of La Paz County. My
15 supervisors couldn't make it down here today. They
16 will be at the subsequent meetings in Parker and
17 Bullhead City, but for them I'm going to say a quick
18 piece here.

19 At the time -- at a time when La Paz County
20 groundwater is being depleted at an alarming rate, the
21 notion of more water leaving La Paz County is utterly
22 disheartening. And, to be clear, Arizona is not
23 leaving Queen Creek without any water. There exists
24 today other sources of water that are available to
25 Queen Creek to provide water for Arizona's urban

1 growth. Three examples are the Harquahala Basin --
2 sorry -- the Harquahala Basin offers water that can be
3 obtained and transferred today to Queen Creek under
4 Arizona law and under Arizona Revised Statute Section
5 45-554.

6 The second is the Central Arizona Groundwater
7 Replenishment District, CAGRD, is available today for
8 development in Queen Creek; and, indeed, CAGRD's latest
9 member lands include lands in Queen Creek, Arizona.

10 And, finally, Gila River Indian Community
11 water is available today and the community has created
12 an entity to lease water to other parties in Central
13 Arizona called the Gila River Water Storage.

14 So those are just three -- three areas where
15 Queen Creek could obtain water without going into
16 La Paz County and removing more water from a county
17 that's already being -- having groundwater depleted, so
18 I would ask you to deny this recommendation of transfer
19 between Greenstone and Queen Creek. Thank you.

20 MS. KARTHA: Next we have Kirk
21 McCarville.

22 May the record show that Kirk McCarville
23 left.

24 Next we have Mike Curtis. Before Mr. Curtis
25 starts to speak, he's representing more than one

1 district, so we're going to give him a little bit more
2 time.

3 MR. CURTIS: Madam Chairman, I want to
4 thank you for recognizing the next comment I was about
5 to make, which was that request, but I will try not to
6 exploit that.

7 Let me say that I am here on behalf of and as
8 counsel for the Hohokam Irrigation and Drainage
9 District in Pinal County. The district is supportive
10 of this request. The district has a history of
11 supporting sister municipalities in a variety of areas,
12 including water, and has been the beneficiary of close
13 partnerships.

14 The Arizona Municipal Water Users Association
15 members in 1990s were very helpful in rescuing the
16 Hohokam District, and the Hohokam District in
17 subsequent years has worked very closely with sister
18 municipalities in Florence, Coolidge, and Casa Grande.

19 They believe that -- the legitimate needs of
20 urbanization, meaning that we have to look for unique
21 solutions, and that this is a unique solution.

22 Additionally, in Pima County, I'm here on
23 behalf of the Cortaro-Marana Irrigation District.
24 Cortaro-Marana Irrigation District actually helped form
25 the Town of Marana. Conceivably at the time it did so

1 to protect the area from the City of Tucson, but those
2 were long ago days and today Cortaro works very closely
3 with Marana and with Tucson and with Oro Valley and
4 recognizes their need for water and helps manage water
5 supplies.

6 Lastly, there is another entity in Pima
7 County called the Avra Valley Irrigation and Drainage
8 District, which also works closely with sister
9 municipalities.

10 They're in support of this proposal because
11 they believe it's evidence of sound water management,
12 and it is unique inasmuch as has been pointed out.
13 We're talking not about municipal rights or
14 governmental rights. We're talking about the right of
15 private persons to their private property, recognized
16 in law as others have mentioned out before me.

17 The urbanization of Queen Creek is -- is a
18 very legitimate need, and we think that -- these three
19 districts think that this deserves to be supported as a
20 unique solution for meeting the expanding urban needs
21 of Queen Creek.

22 And, again, it's been pointed out it's
23 different than any other proposals that have been made
24 in the past, so we're happy to -- I'm happy as counsel
25 for those three entities to be in support of this.

1 MS. KARTHA: Next we have Jamie Kelley.

2 MS. KELLEY: Good morning. My name is
3 Jamie Kelley. I serve as general counsel for Mohave
4 County Water Authority. Thank you for providing the
5 opportunity to speak in opposition of the proposed
6 transfer.

7 As a resident of a on-river community, I
8 believe this proposed transfer is a threat to the life
9 of rural on-river communities, but I think it's
10 important to note that 4th priority Colorado River
11 water is not the same as other surface water in
12 Arizona. Colorado River water is not subject to
13 private ownership like other surface water in Arizona.

14 An entitlement contract under Section 5 for
15 the use of 4th priority water is the contractual right
16 to use a defined amount of water on a defined area of
17 land. It is not a private property right. It is the
18 right to use the water.

19 I think it's also important to note that
20 on-river communities have one source of water. They
21 only have Colorado River water. There's no groundwater
22 available for those communities to use.

23 If this water transfers away, it removes the
24 potential for future growth from the river communities.
25 It becomes a transfer of wealth because it is a

1 transfer of the economic opportunity. One that the
2 river communities will not be able to recover from
3 because, as we all know in Arizona, there's simply not
4 enough water.

5 This transfer is particularly harmful to
6 on-river communities as it transfers the entire water
7 entitlement, leaving no water in the lands for
8 development. The request for consultation states the
9 landowner will seek other local sources of water for
10 development of the land.

11 Why the holder of this right-to-use water,
12 water reserved for the use by on-river users, should be
13 entitled to transfer that water to Central Arizona for
14 its own economic profit and then pursue an additional
15 allocation from other local sources for use on its
16 land, which it no longer -- which no longer has water
17 because it has been transferred -- it doesn't make
18 sense.

19 Why should they be able to obtain another
20 allocation? Why should the land not be developed? If
21 it has no water, it can't be developed.

22 And I guess, finally, the question is if they
23 obtain an additional source of water, would they be
24 able to transfer it also?

25 Rural on-river communities are dependent upon

1 4th priority water for their continued viability and
2 growth. Without a consistent, secure source of water,
3 the economic futures of these communities is in peril.

4 On-river communities deserve the same
5 opportunities for economic growth as Central Arizona
6 communities.

7 MS. KARTHA: Ms. Kelley, your time is
8 up.

9 MS. KELLEY: Okay.

10 MS. KARTHA: But we can certainly take
11 your written comments.

12 MS. KELLEY: I'll see you at the next
13 hearing.

14 MS. KARTHA: Next we have Spencer Kamps.

15 MR. KAMPS: I'm Spencer Kamps. I
16 represent the Home Builders Association of Central
17 Arizona. We stand in support of this transfer. I
18 would also like to note that we also stand in support
19 of this process. My members in our industry recognizes
20 the right and ability of DWR to review these -- these
21 transfers for the implications, but we also obviously
22 stand in support of it and for a couple of reasons.

23 Number one is obviously it's a legal
24 transfer. You have two willing parties who are
25 engaging in a business transaction. We recognize this

1 process, needs to review it, and the public comment
2 period needs to process through; but when it -- when --
3 the law recognizes the willingness of these two
4 parties, as has been testified earlier, to engage in
5 this kind of transaction.

6 The second point is the economics. Obviously
7 from our industry standpoint, the jobs that are
8 created, over 2,700, the wages of 115 million,
9 according to the Elliott Pollack study, the tax
10 generation and the shared revenues all lean towards a
11 positive impact to Arizona's economy, which we think is
12 healthy for the state of Arizona.

13 But the most important number is this water
14 would support about 5,200 households, and that's near
15 and dear to our heart.

16 The last point I'd like to make is, is this
17 not what good water policy about. Queen Creek is
18 obviously a community that's growing. It's trying to
19 seek a designated status with the Assured Water Supply
20 Program. It needs renewable supplies to do that. That
21 at the end of the day is good water policy.

22 In our view -- the Kyl Water Center recently
23 sent out a paper. A lot of it I disagree with, for the
24 record, but some I do -- is that -- is that they
25 specifically outline this, is that growth should occur

1 in designated cities with renewable supply, and I think
2 that is the objective of this transfer.

3 So for the purpose of the -- or for the
4 reasons that it's legal, it's good for the state of
5 Arizona, that it's good water policy, we encourage the
6 Department of Water Resources to recommend approval of
7 this transfer.

8 MS. KARTHA: Next we have Senator Lisa
9 Otondo.

10 SENATOR OTONDO: Thank you. I'm Senator
11 Lisa Otondo from Yuma, so I guess it's obvious where
12 I'm going to stand on this position.

13 Director, I want to thank you for giving us
14 the opportunity to speak today, and I welcome you all
15 to Yuma because you're going to hear us loud and clear.

16 Let's be straight. The GSC does not own this
17 water. This is not their right. They have the right
18 to contract this water, but they do not have the right
19 for this subject matter. By the way, I strongly
20 support and recommend that we all read once, twice,
21 three times and four times the white paper that was
22 published by the Kyl Center.

23 And if you're speaking about one of the
24 recommendations, as it talked about building
25 communities with renewable sources of water, that's

1 simply because we suggest that you build where water is
2 as opposed to taking it from our rural communities.

3 And I would also like to respectfully
4 disagree with Mr. Grady. We have a strong and vibrant
5 river community. I think we made that very clear in
6 the drought contingency plan, and we will continue to
7 make that very clear in these next meetings.

8 Now, I won't be available tomorrow. I'll be
9 at a caucus retreat, but I will definitely be there in
10 Yuma, and I suggest to the people that they come early
11 because Yuma will pack the audience.

12 This is an extremely important issue for
13 on-river communities, and I will tell you that this is
14 the camel's nose under the tent -- no, let me correct
15 myself -- this is the camel moving in the tent.

16 The Arizona river communities -- our life is
17 the river. And the beginning of transfers is really a
18 huge detriment to our rural communities.

19 Now, if anybody -- it was mentioned earlier
20 that legally this is different. Well, we all know
21 lawyers. This goes through and the avalanche begins.
22 I strongly oppose this, and I will welcome all of you
23 to Yuma. Thank you very much for your time.

24 MS. KARTHA: Next we have Wade Noble.
25 So we're giving Wade Noble also an extra minute because

1 he's here representing multiple irrigation districts.

2 MR. NOBLE: When I heard that Don
3 Michael Curtis got a little bit of extra time for
4 listing all his --

5 (WHEREUPON, there's laughter from the
6 audience.)

7 MR. CURTIS: But I didn't use it.

8 MR. NOBLE: Wade Noble, 1405 West 16th
9 Street, Yuma, Arizona. I represent four irrigation
10 districts in Yuma County.

11 Over a 100 years ago, with best intentions,
12 someone near a river said, you know, if we just dug a
13 little ditch we could get some of that river water and
14 the next thing you know we'd all be prosperous. So
15 they dug the ditch. They put in a diversion dam. It
16 failed. They put in another diversion dam. It failed.
17 They put in another diversion dam. It failed big time.
18 For a year it drained the entire Colorado River into
19 California.

20 What we're looking at today is very similar
21 and can be compared. This is not the first attempt
22 that we've had to take water off the river, especially
23 from agriculture.

24 I agree with those who have opposed this
25 proposal and points that they've made. We certainly

1 disagree with some of the statements that have been
2 made regarding why it's a good thing, but most
3 important of all we say to you that this is a policy
4 decision.

5 The Department of Water Resources is going to
6 make its recommendation to the Bureau of Reclamation
7 based on policy as much as the facts surrounding this
8 particular application.

9 Why is this a policy decision? We thank
10 Queen Creek for its August of this year press release
11 in which it touted that this particular transfer would
12 save over 200,000 acre-feet of groundwater in Pinal
13 County. That was just like putting it up in neon as
14 far as we're concerned. That says, if you want to save
15 the groundwater in Pinal County, you take it off the
16 river. And we are definitely opposed to that.

17 This little ditch that's supposedly 2,000 --
18 less than 2,100 acre-feet -- that's all we're going to
19 take -- we don't think that's going to work at all. We
20 believe there are those who will say, m'mm, if they can
21 sell it, I can figure out a way to sell it.

22 If they need it much more than we need do --
23 and that's what we're hearing from the proponents is
24 this is a better use of the water. It helps more.
25 It's good for more people, and, therefore, the policy

1 should be the transfer should be allowed. That's not
2 good policy. That says money makes things move. That
3 says if you have more people, you can take it away from
4 those who have less.

5 If you believe that the use you want to have
6 is a higher priority than the one it's being used for
7 now, you can do that. It is not a bit unusual for us
8 to conclude that the same company that is transferring
9 this water right, which owns land in Yuma County for
10 agricultural purposes, is going to do that.

11 We thank Don Michael for his mentioning the
12 irrigation districts that he represents being in
13 support of this. That concerns us because they need
14 water.

15 As I sat down today, Don Michael Curtis
16 looked at me and said this hearing is not about moving
17 water out of Yuma. My response was it depends on how
18 you look at it.

19 MS. KARTHA: Next we have Gail Barney,
20 Mayor of Queen Creek.

21 MAYOR BARNEY: Thank you. I am Gail
22 Barney, Mayor of Queen Creek, Arizona. I live at 2184
23 East Queen Creek Road, been in Queen Creek for 72
24 years, so I've seen everything what's gone on in Queen
25 Creek for a long time, and I want to thank everyone for

1 the opportunity to speak.

2 This is one of the great things about our
3 country is we get to come together and talk about our
4 differences and walk out being friends and know that
5 the best result will come from the choices that we get
6 to make.

7 Queen Creek, as a town council, is committed
8 to ensuring the sustainability of Queen Creek today and
9 into the future. This includes being financially
10 conservative, investing in our community and taking
11 care of our environment.

12 A key component of a sustainability,
13 successful community is access to water. The proposed
14 transfer is an effort to reduce our reliance on
15 groundwater, benefiting current and future generations.

16 And, of course, in conclusion, I support the
17 transfer. So thank you very much.

18 MS. KARTHA: Next we have Patrick
19 Cunningham.

20 MR. CUNNINGHAM: I yield all my time to
21 Don Michael.

22 Patrick Cunningham, HighGround, representing
23 Mohave County, Mohave County Water Authority. I just
24 wanted to say a few things besides thanks for holding
25 these meetings around the state.

1 A couple things that have been spoken that I
2 just don't think are the right policy choice.

3 First, whether this is a private property
4 right. It's not a private property right. It's a
5 right to use water under a contract; and if it were a
6 private property right, they would have been
7 transferred 50 years ago.

8 This is not California water. This is our
9 water. Yeah, our friends at La Paz County are pretty
10 darn close to California, but the lines were drawn
11 years ago. It's our water. We want to make sure we
12 husbandry it correctly.

13 The 164,000 reserve for the river
14 communities -- I've heard words spoken that Bureau of
15 Reclamation did that or Department of Interior did
16 that. They did not. State of Arizona did that. State
17 of Arizona worked throughout the seventies to figure
18 out how much water would come to Central Arizona and
19 how much water would stay on the river. And 164,000
20 was settled upon by DWR and its predecessor, the Water
21 Commission, and the rest of the water, 1.6 million
22 acre-feet goes to Central Arizona.

23 Central Arizona got 90 percent. The river
24 community got 10 percent. Now Central Arizona is
25 coming for the last 10 percent.

1 When you hear sound water management and it
2 sounds water management, you know that's the person
3 getting the water. You heard sound water management
4 today. The people who are getting the water think it's
5 sound water management.

6 What does the river community -- what do they
7 think, its a water raid. A water raid, that's a harsh
8 term. Why do we think it's a water raid? Because of
9 the computation of its value.

10 On the back of a nice letter written by the
11 Mayor and Mr. Grady Gammage, they put in the revenue
12 shared with the various counties as a result of this,
13 and lo and behold, La Paz County gets 12,000 dollars
14 and Central Arizona gets 4.44 million dollars.

15 Queen Creek's own press release says the
16 value of this water is 307 million. That's 307 million
17 dollars drained out of the river communities into
18 Central Arizona.

19 I'm from Kingman. I view things very simply.
20 That ain't right. That just ain't right.

21 MS. KARTHA: That was our last speaker
22 card. Is there anyone else who would like to speak?
23 Let the record reflect that no one else wishes to
24 speak.

25 Is there anyone here who wishes to submit any

1 written comments or evidence that they have brought
2 with them?

3 Let the record reflect that no one wishes to
4 submit any written comments or evidence.

5 As I mentioned earlier, written comments
6 maybe submitted until 5 p.m., December 16th.

7 If you would like to submit written comments
8 after the close of the meeting but no later than
9 December 16th, please mail, fax or email them to Sharon
10 Scantlebury, the Department's Docket Supervisor. Her
11 fax number is 602-771-8686 and her email address is
12 sscantlebury@azwater.gov. I will spell it out now.
13 S-S-C-A-N-T-L-E-B-U-R-Y@A-Z-W-A-T-E-R.gov.

14 If you would like to mail your comments, the
15 mailing address is: Arizona Department of Water
16 Resources, Attention Sharon Scantlebury, Docket
17 Supervisor. PO Box 36020, Phoenix, AZ 85067.

18 This public meeting is now adjourned. Thank
19 you all for attending and providing comments.

20 (WHEREUPON, the public hearing was adjourned
21 at 11:01 a.m.)

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C E R T I F I C A T E

BE IT KNOWN that the foregoing proceedings were reported by Dorothy A. Schulte, Certified Reporter, Certificate No. 50459, State of Arizona, and reduced to written form under my direction; that the foregoing 41 pages constitute a full, true, and accurate transcript; all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 8th day of December, 2019.

Dorothy A. Schulte

Dorothy A. Schulte, RPR
Certified Court Reporter
Certified No. 50459

'	4	actions [1] 9/7
'18 [1] 15/24	4,100 [2] 12/7 24/6	actually [2] 21/7 27/24
1	4.44 [1] 40/14	addition [1] 12/4
1.6 [1] 39/21	40 [1] 14/23	additional [6] 5/11 6/19 10/14 12/7 30/14 30/23
10 [4] 3/6 15/9 39/24 39/25	41 [1] 42/14	Additionally [1] 27/22
100 [2] 24/23 35/11	42,421 [1] 11/25	address [5] 5/14 14/13 18/25 41/11 41/15
105 [1] 7/20	43,500 [1] 12/3	addressed [1] 13/10
107 [2] 7/24 8/12	45-105 [1] 7/20	adequate [1] 8/21
10:00 [1] 1/16	45-107 [2] 7/24 8/12	adjourned [2] 41/18 41/20
115 [1] 32/8	45-554 [1] 26/5	Administrator [1] 3/13
11:01 [1] 41/21	485.5 [1] 11/3	adopted [1] 8/20
12,000 [2] 18/20 40/13	495 [2] 12/1 24/5	advertised [1] 4/17
14 [2] 2/4 9/21	4th [18] 1/10 4/11 10/24 11/16 13/3 14/20 15/8 15/12 15/21 16/22 17/3 17/12 17/23 18/10 23/6 29/10 29/15 31/1	advertisement [3] 5/3 5/4 9/19
1405 [1] 35/8		advertising [1] 9/9
14th [1] 4/18	5	advise [1] 8/14
15,000 [1] 20/4	5,200 [1] 32/14	advise [1] 8/3
15,100 [1] 11/23	50 [1] 39/7	ADWR [3] 3/17 6/17 15/16
16 [2] 2/5 6/16	504 [1] 11/2	affected [1] 14/16
164,000 [4] 22/25 23/9 39/13 39/19	50459 [3] 1/25 42/12 42/25	affiliation [1] 13/9
164,562 [1] 22/22	554 [1] 26/5	after [4] 6/1 9/6 15/20 41/8
164,652 [1] 15/12	5th [2] 19/20 19/20	again [3] 16/1 18/2 28/22
16th [5] 5/7 6/7 35/8 41/6 41/9	6	against [1] 16/24
18 [1] 2/6	60 [2] 6/16 10/13	agenda [1] 12/23
19 [1] 1/15	602-421-3602 [1] 1/25	ago [5] 14/24 28/2 35/11 39/7 39/11
1901 [1] 22/13	602-771-8686 [2] 6/11 41/11	agree [1] 35/24
1950s [1] 19/17	7	agreed [1] 7/5
1988 [1] 22/23	72 [1] 37/23	agreement [4] 12/17 17/18 17/24 24/15
1989 [1] 23/23	7th [1] 4/18	agricultural [3] 8/20 11/12 37/10
1990 [1] 15/15	8	agriculture [1] 35/23
1990s [1] 27/15	8,000 [1] 12/8	ain't [2] 40/20 40/20
19th [1] 3/5	85067 [1] 41/17	alarming [1] 25/20
2	8686 [2] 6/11 41/11	all [36] 5/18 7/3 7/6 9/6 9/15 10/17 11/5 13/8 13/10 13/20 15/4 17/9 19/10 19/14 19/15 20/3 20/15 20/16 20/23 21/20 22/7 22/10 30/3 32/10 33/14 33/20 34/20 34/22 35/4 35/14 36/3 36/18 36/19 38/20 41/19 42/15
2,000 [2] 12/1 36/17	8th [1] 42/17	Allhands' [1] 21/5
2,083.1 [1] 11/8	9	allocated [1] 17/4
2,088 [2] 14/19 16/21	9.89 [1] 15/12	allocation [6] 14/23 20/17 23/8 24/5 30/15 30/20
2,100 [1] 36/18	90 [3] 7/3 10/17 39/23	allotted [1] 13/16
2,700 [1] 32/8	90 percent [1] 15/8	allow [2] 13/19 13/20
2,913.3 [1] 10/25	A	allowed [2] 13/14 37/1
2.8 [1] 8/9	A-Z-W-A-T-E-R.gov [1] 41/13	allowing [3] 14/15 15/1 21/16
20,088 [1] 14/19	a.m [3] 1/16 3/6 41/21	along [1] 17/5
200,000 [2] 24/22 36/12	ability [4] 23/24 24/17 31/20 42/16	already [4] 4/3 15/7 17/4 26/17
2014 [1] 24/8	able [4] 14/12 30/2 30/19 30/24	also [25] 3/14 4/5 4/21 5/8 5/20 6/6 7/21 9/2 9/11 9/16 10/11 12/16 14/15 17/9 17/22 19/25 20/7 28/8 29/19 30/24 31/18 31/18 31/21 34/3 34/25
2017 [2] 15/23 17/15	about [16] 6/25 16/6 20/4 20/5 21/21 22/9 27/4 28/13 28/14 32/14 32/17 33/23 33/24 37/16 38/2 38/3	alternative [1] 24/2
2018 [2] 17/16 17/17	accept [2] 5/1 6/6	always [1] 21/22
2019 [7] 1/15 3/5 4/18 5/7 6/7 6/16 42/18	accepted [1] 5/6	am [8] 3/8 14/17 16/4 16/13 18/1 19/1 27/7 37/21
21 [1] 2/7	accepting [1] 6/3	AMA [1] 25/8
2184 [1] 37/22	access [3] 23/25 24/11 38/13	amount [2] 24/5 29/16
23 [1] 2/8	according [2] 22/16 32/9	Amy [1] 3/14
25 [1] 2/9	accurate [1] 42/15	analysis [2] 9/2 18/13
27 [1] 2/10	accurately [2] 3/25 13/22	annual [1] 11/23
28.5 [1] 11/10	acre [23] 8/10 10/25 11/8 11/16 11/23 11/25 12/1 12/2 12/3 12/7 12/8 14/19 15/12 16/21 20/4 22/25 23/9 24/5 24/7 24/22 36/12 36/18 39/22	annually [1] 11/6
28th [1] 15/15	acre-feet [23] 8/10 10/25 11/8 11/16 11/23 11/25 12/1 12/2 12/3 12/7 12/8 14/19 15/12 16/21 20/4 22/25 23/9 24/5 24/7 24/22 36/12 36/18 39/22	another [7] 21/4 22/1 22/20 28/6 30/19 35/16 35/17
29 [1] 2/11	acres [4] 11/2 11/3 11/3 11/5	any [11] 3/21 4/1 5/23 6/3 8/22 9/23 14/4 25/23 28/23 40/25 41/4
3	Act [1] 25/2	anybody [1] 34/19
30 [1] 5/2		anyone [5] 4/1 5/23 6/4 40/22 40/25
300 [1] 11/16		anything [1] 15/10
307 [3] 18/15 40/16 40/16		
30th [1] 5/4		
31 [1] 2/12		
33 [1] 2/13		
35 [1] 2/14		
3602 [1] 1/25		
36020 [1] 41/17		
37 [1] 2/15		
38 [1] 2/16		

A
application [7] 4/10 4/21 6/5 10/3 13/2 13/12 36/8
appreciate [2] 14/12 25/9
approach [1] 24/10
appropriation [2] 21/23 22/19
approval [2] 23/13 33/6
approve [1] 16/8
approved [2] 6/23 15/25
are [35] 3/6 3/11 4/5 5/13 5/24 6/14 6/24 8/13 9/7 10/16 11/3 11/5 12/18 14/21 15/1 15/2 15/3 17/20 18/8 19/11 20/9 21/1 22/4 23/6 25/24 26/1 26/14 30/25 31/24 32/7 36/16 36/20 39/2 39/9 40/4
area [5] 9/16 12/12 23/10 28/1 29/16
areas [2] 26/14 27/11
ARIZONA [74]
Arizona's [4] 8/9 25/8 25/25 32/11
around [2] 11/2 38/25
arrogant [1] 15/10
as [48]
ask [4] 13/7 18/9 23/12 26/18
asking [1] 18/1
Asset [1] 17/19
assignments [1] 9/4
Assistant [1] 3/11
Association [2] 27/14 31/16
Assured [1] 32/19
assuring [1] 24/10
attempt [3] 7/4 15/19 35/21
attempted [2] 17/13 17/22
attempting [1] 21/18
attending [1] 41/19
Attention [1] 41/16
attorney [1] 19/1
audience [2] 34/11 35/6
August [1] 36/10
authorities [1] 7/12
Authority [2] 29/4 38/23
authorized [2] 8/2 22/4
available [16] 4/5 4/21 5/19 5/21 6/14 11/14 12/19 18/8 22/25 23/5 23/25 25/24 26/7 26/11 29/22 34/8
avalanche [1] 34/21
avenues [1] 24/2
Avra [1] 28/7
aware [1] 5/21
away [4] 15/5 17/7 29/23 37/3
AZ [1] 41/17
azwater.gov [2] 6/10 41/12

B
back [4] 19/17 19/22 22/13 40/10
Barney [4] 2/15 37/19 37/21 37/22
based [3] 11/4 11/9 36/7
Basin [2] 26/1 26/2
be [57]
because [16] 3/17 5/3 8/18 19/2 21/8 22/10 28/10 29/25 30/3 30/17 33/15 34/1 34/11 34/25 37/13 40/8
becomes [1] 29/25
been [21] 9/6 15/21 16/13 17/4 17/12 19/12 20/8 21/22 22/9 22/12 24/4 27/12 28/12 28/22 28/23 30/17 32/4 36/1 37/23 39/1 39/6
before [4] 14/18 16/23 26/24 28/16
begin [1] 13/23
beginning [1] 34/17
begins [1] 34/21

behalf [5] 8/3 13/18 25/14 27/7 27/23
behold [1] 40/13
being [10] 11/5 21/6 21/7 24/22 25/20 26/17 37/6 37/12 38/4 38/9
believe [5] 27/19 28/11 29/8 36/20 37/5
beneficial [6] 19/12 19/15 21/22 21/23 21/25 22/20
beneficiary [1] 27/12
benefit [5] 18/14 18/15 20/24 21/3 21/8
benefiting [2] 24/23 38/15
besides [1] 38/24
best [4] 19/9 35/11 38/5 42/15
better [1] 36/24
between [1] 26/19
big [1] 35/17
bit [3] 27/1 35/3 37/7
Blythe [1] 20/22
Board [2] 15/23 17/14
both [1] 21/17
Box [1] 41/17
brought [1] 41/1
build [1] 34/1
Builders [1] 31/16
building [1] 33/24
Bullhead [3] 5/9 16/18 25/17
Bureau [8] 10/24 15/16 18/3 18/5 19/21 22/24 36/6 39/14
Buschatzke [5] 3/15 14/14 16/16 17/1 21/16
business [2] 6/13 31/25

C
CAGR [1] 26/7
CAGR's [1] 26/8
California [7] 20/21 20/25 21/2 21/3 35/19 39/8 39/10
call [1] 14/3
called [2] 26/13 28/7
calling [1] 13/23
camel [1] 34/15
camel's [1] 34/14
can [10] 3/25 5/25 13/16 26/2 31/10 35/21 36/20 36/21 37/3 37/7
can't [2] 20/22 30/21
cannot [3] 15/9 20/13 22/10
CAP [5] 11/25 12/7 20/17 24/5 24/7
capital [1] 24/2
capture [1] 13/22
card [5] 4/7 4/7 13/25 14/2 40/22
cards [4] 4/5 6/13 13/24 14/1
care [1] 38/11
carefully [1] 23/13
Casa [1] 27/18
case [4] 9/20 19/8 21/6 22/13
cases [1] 8/18
caucus [1] 34/9
caused [1] 10/1
CAWD [1] 15/23
CCR [1] 1/24
Center [2] 32/22 33/22
Central [19] 14/20 15/7 15/22 16/23 17/13 19/1 22/3 22/23 26/6 26/12 30/13 31/5 31/16 39/18 39/22 39/23 39/24 40/14 40/18
certain [1] 23/25
certainly [2] 31/10 35/25
Certificate [2] 1/25 42/12
Certified [3] 42/11 42/24 42/25
chair [2] 16/13 16/14
Chairman [1] 27/3

Chandler [1] 3/11
change [2] 12/13 22/19
charged [1] 8/8
choice [1] 39/2
choices [1] 38/5
Cibola [3] 11/15 20/20 24/14
circulation [2] 4/19 9/11
circumstance [1] 20/3
cities [1] 33/1
city [7] 5/9 5/9 5/10 16/18 20/16 25/17 28/1
civil [1] 16/2
claim [1] 6/21
claimed [4] 6/24 7/1 7/4 10/18
claims [4] 6/20 7/2 10/15 10/16
clear [5] 22/14 25/22 33/15 34/5 34/7
Clint [1] 3/11
close [3] 27/12 39/10 41/8
closely [3] 27/17 28/2 28/8
closer [1] 25/7
Cobb [4] 2/4 14/7 14/8 14/9
Cole [3] 2/9 25/12 25/14
COLORADO [29] 1/11 3/8 4/12 4/16 7/14 8/1 8/6 8/10 8/17 8/23 9/1 9/5 9/25 10/6 10/7 10/24 11/10 12/5 13/3 14/23 15/13 15/14 15/14 16/22 17/3 29/10 29/12 29/21 35/18
column [1] 21/5
come [6] 14/3 15/9 34/10 38/3 38/5 39/18
comes [1] 23/7
coming [1] 39/25
comment [7] 1/9 10/11 10/14 12/23 16/17 27/4 32/1
comments [27] 3/19 3/20 3/23 3/25 4/10 5/1 5/5 5/12 5/22 5/23 6/3 6/6 6/8 13/1 13/10 13/16 13/21 14/5 14/13 21/16 31/11 41/1 41/4 41/5 41/7 41/14 41/19
Commission [1] 39/21
committed [1] 38/7
Communications [1] 3/12
communities [26] 14/16 14/24 15/13 15/14 15/23 17/4 18/11 23/8 23/11 29/9 29/20 29/22 29/24 30/2 30/6 30/25 31/3 31/4 31/6 33/25 34/2 34/13 34/16 34/18 39/14 40/17
community [10] 23/23 26/10 26/11 29/7 32/18 34/5 38/10 38/13 39/24 40/6
Companies [1] 15/2
company [2] 17/18 37/8
compared [1] 35/21
completely [1] 19/5
component [1] 38/12
comprehensively [1] 8/9
computation [1] 40/9
Conceivably [1] 27/25
concerned [1] 36/14
concerns [1] 37/13
conclude [2] 19/9 37/8
concludes [1] 12/21
conclusion [2] 6/2 38/16
conducted [1] 5/16
conducting [1] 16/16
confer [1] 8/14
consecutive [1] 9/10
conservation [4] 7/22 12/11 17/14 24/15
conservative [1] 38/10
consider [3] 10/4 22/1 23/12

C
consideration [1] 25/9
considered [1] 10/11
consistent [3] 8/11 8/22 31/2
constantly [1] 20/10
constitute [1] 42/14
consult [1] 8/3
consultation [4] 11/22 12/5 12/15 30/8
consumptive [1] 11/8
contact [3] 5/25 6/12 6/14
contemplate [1] 8/12
context [1] 20/10
contingency [1] 34/6
continue [2] 25/4 34/6
continued [1] 31/1
contract [10] 9/15 10/23 17/18 18/4
18/6 19/21 22/23 29/14 33/18 39/5
contractor [2] 9/14 9/24
contracts [2] 12/18 23/1
contractual [2] 20/14 29/15
conveyance [1] 9/7
conveyances [1] 9/4
conveying [1] 9/14
Coolidge [1] 27/18
cooperate [2] 8/4 8/14
copy [2] 5/18 6/11
correct [1] 34/14
correctly [1] 39/12
corridor [1] 17/6
Cortaro [3] 27/23 27/24 28/2
Cortaro-Marana [2] 27/23 27/24
could [5] 10/9 11/17 18/18 26/15 35/13
couldn't [1] 25/15
council [1] 38/7
counsel [3] 27/8 28/24 29/3
counties [4] 11/21 14/11 16/9 40/12
country [1] 38/3
county [30] 9/12 9/13 9/22 10/22 16/8
16/11 16/14 17/2 17/9 17/19 17/21
18/14 18/19 25/14 25/19 25/21 26/16
26/16 27/9 27/22 28/7 29/4 35/10
36/13 36/15 37/9 38/23 38/23 39/9
40/13
County's [1] 17/1
couple [3] 23/20 31/22 39/1
course [2] 17/11 38/16
court [7] 3/22 3/25 5/17 13/22 22/14
22/16 42/24
CR10 [1] 8/21
create [1] 14/22
created [4] 19/3 22/23 26/11 32/8
CREEK [39] 1/12 4/13 6/25 7/18 11/20
11/24 12/9 12/16 13/4 14/18 16/23
18/5 18/9 18/15 20/16 21/18 23/14
23/17 23/24 24/9 25/11 25/23 25/25
26/3 26/8 26/9 26/15 26/19 28/17
28/21 32/17 36/10 37/20 37/22 37/23
37/23 37/25 38/7 38/8
Creek's [6] 11/23 12/2 12/6 12/12
16/21 40/15
criteria [2] 9/2 19/14
Cunningham [4] 2/16 38/19 38/20
38/22
current [4] 11/23 20/23 24/23 38/15
currently [2] 10/23 11/5
Curtis [7] 2/10 26/24 26/24 27/3 35/3
35/7 37/15

D
dam [3] 35/15 35/16 35/17

darn [1] 39/10
dated [2] 15/15 42/17
day [3] 5/4 32/21 42/17
days [8] 5/2 6/16 7/3 10/13 10/17 16/5
23/20 28/2
dear [1] 32/15
December [6] 5/7 6/7 6/16 41/6 41/9
42/18
December 16th [3] 5/7 6/7 41/9
decided [2] 15/24 17/16
decision [3] 15/2 36/4 36/9
defined [2] 29/16 29/16
definitely [3] 18/18 34/9 36/16
demand [2] 11/23 12/2
demands [1] 11/24
deny [1] 26/18
DEPARTMENT [38] 1/8 3/6 3/9 3/15
3/16 4/17 5/1 5/8 5/21 6/4 6/5 6/24 7/3
8/7 8/15 8/20 9/3 9/11 9/13 9/16 9/22
10/16 11/4 13/11 15/16 16/16 16/25
17/23 18/2 18/6 22/5 23/12 23/18 24/6
33/6 36/5 39/15 41/15
Department's [12] 4/14 4/22 4/25 5/14
5/19 5/20 6/9 6/13 7/12 10/12 12/20
41/10
dependable [1] 8/19
dependent [1] 30/25
depends [1] 37/17
depleted [2] 25/20 26/17
describe [1] 7/8
describes [1] 9/2
deserve [1] 31/4
deserves [1] 28/19
designated [2] 32/19 33/1
desire [1] 4/6
desk [1] 6/14
destructive [1] 14/21
detail [1] 7/9
details [1] 7/16
determining [1] 10/1
detriment [1] 34/18
develop [1] 21/10
develop it [1] 21/10
developed [2] 30/20 30/21
developing [1] 24/9
development [6] 7/22 11/18 14/25 26/8
30/8 30/10
dialogue [1] 13/22
did [7] 17/24 18/13 27/25 39/15 39/15
39/16 39/16
didn't [1] 35/7
differences [1] 38/4
different [3] 20/11 28/23 34/20
difficulty [1] 4/1
direction [1] 42/13
Director [17] 3/12 3/16 3/19 6/17 7/20
7/25 8/2 8/14 9/23 10/4 10/12 14/14
16/15 17/1 21/16 23/17 33/13
directors [2] 17/15 17/15
disagree [3] 32/23 34/4 36/1
disapproval [1] 18/2
discontinue [1] 15/24
disheartening [1] 25/22
displace [1] 22/2
distribution [1] 8/16
district [20] 11/15 12/11 14/10 14/11
16/11 16/15 17/14 17/20 19/19 24/15
26/7 27/1 27/9 27/9 27/10 27/16 27/16
27/23 27/24 28/8
districts [4] 28/19 35/1 35/10 37/12

ditch [3] 35/13 35/15 36/17
diversion [5] 10/25 12/14 35/15 35/16
35/17
divide [1] 14/22
divided [1] 7/10
do [15] 4/2 15/4 15/4 16/8 18/14 19/24
20/17 32/20 32/24 33/18 36/22 37/7
37/10 40/6 40/8
Docket [4] 3/13 6/9 41/10 41/16
documentary [1] 6/3
documents [3] 9/6 12/17 12/18
does [2] 33/16 40/6
doesn't [1] 30/17
dollars [5] 18/16 18/20 40/13 40/14
40/17
domestic [1] 11/17
Don [4] 35/2 37/11 37/15 38/21
don't [2] 36/19 39/2
done [3] 4/3 14/15 42/15
Dorothy [4] 1/24 42/11 42/23 42/24
Douglas [1] 3/12
down [4] 17/5 20/22 25/15 37/15
downloading [1] 12/19
Drainage [4] 11/15 17/20 27/8 28/7
drained [2] 35/18 40/17
drawn [1] 39/10
drive [1] 20/21
drought [1] 34/6
Due [1] 8/16
dug [2] 35/12 35/15
during [2] 10/3 10/11
DWR [2] 31/20 39/20

E
each [2] 13/14 13/21
earlier [4] 12/24 32/4 34/19 41/5
early [2] 22/13 34/10
east [2] 17/8 37/23
economic [7] 18/13 20/23 21/3 30/1
30/14 31/3 31/5
economics [1] 32/6
economy [2] 8/17 32/11
efficiently [1] 13/17
effluent [2] 12/1 12/8
effort [1] 38/14
either [1] 5/25
elaborate [1] 22/7
element [1] 24/12
Elliott [1] 32/9
else [2] 40/22 40/23
email [3] 6/10 41/9 41/11
emphatically [1] 14/17
encourage [1] 33/5
end [2] 10/13 32/21
engage [1] 32/4
engaging [1] 31/25
enough [1] 30/4
ensure [2] 8/21 13/5
ensuring [1] 38/8
entered [1] 23/1
entire [2] 30/6 35/18
entities [4] 6/21 8/12 9/17 28/25
entitled [2] 4/15 30/13
entitlement [18] 4/12 4/16 8/10 8/13
8/23 8/25 9/14 9/25 10/6 10/8 10/25
11/11 11/17 13/4 16/22 23/4 29/14
30/7
entity [10] 3/17 8/8 10/21 11/20 14/4
19/18 19/18 19/19 26/12 28/6
entrance [2] 4/4 14/2

<p>E</p> <p>environment [1] 38/11 equivocal [1] 15/17 especially [1] 35/22 established [1] 19/16 establishes [1] 8/24 evaluate [3] 9/3 19/3 19/6 evaluating [1] 22/6 evaluation [2] 8/22 19/8 every [1] 13/5 everyone [2] 13/15 37/25 everything [1] 37/24 evidence [4] 6/3 28/11 41/1 41/4 examples [1] 26/1 exists [1] 25/23 expanding [1] 28/20 expected [1] 12/2 exploit [1] 27/6 extension [2] 7/6 10/18 extra [2] 34/25 35/3 extremely [1] 34/12</p>	<p>four [2] 33/21 35/9 free [2] 15/3 22/15 friends [2] 38/4 39/9 fulfills [1] 11/24 full [1] 42/14 functionally [1] 21/1 future [11] 11/13 11/19 12/2 12/6 15/18 16/1 22/11 24/23 29/24 38/9 38/15 futures [1] 31/3</p>	<p>harsh [1] 40/7 has [24] 4/1 5/23 13/6 13/15 15/9 15/20 17/12 17/22 19/12 20/17 21/22 22/12 24/4 24/16 25/3 26/11 27/10 27/12 27/17 28/12 30/16 30/17 30/21 32/4 have [39] 3/22 9/6 13/25 16/10 19/6 19/13 20/21 21/10 21/14 23/7 23/15 24/4 24/6 25/12 26/20 26/24 27/20 28/16 28/23 29/1 29/20 29/21 31/14 31/24 33/8 33/17 33/18 34/4 34/24 35/24 36/1 37/3 37/4 37/5 37/19 38/18 39/1 39/6 41/1 haven't [1] 4/3 having [2] 20/8 26/17 he [1] 37/12 he's [2] 26/25 35/1 healthy [1] 32/12 hear [7] 13/21 16/6 19/4 19/25 20/7 33/15 40/1 heard [6] 13/7 15/23 17/15 35/2 39/14 40/3 hearing [5] 4/1 31/13 36/23 37/16 41/20 heart [1] 32/15 held [2] 19/18 20/4 help [2] 24/20 25/5 helped [1] 27/24 helpful [1] 27/15 helps [2] 28/4 36/24 her [3] 6/13 41/10 41/11 here [15] 3/19 3/22 16/4 18/1 19/2 21/1 21/8 21/24 25/14 25/15 25/18 27/7 27/22 35/1 40/25 herein [1] 23/3 higher [1] 37/6 HighGround [1] 38/22 highly [1] 22/11 him [1] 27/1 his [4] 22/19 22/19 35/4 37/11 history [1] 27/10 Hohokam [3] 27/8 27/16 27/16 holder [3] 22/15 22/18 30/11 holders [2] 10/6 10/8 holding [5] 5/8 14/14 16/18 23/18 38/24 holds [2] 10/23 11/16 Home [1] 31/16 households [1] 32/14 how [5] 23/21 23/22 37/17 39/18 39/19 huge [1] 34/18 husbandry [1] 39/12</p>
<p>F</p> <p>face [1] 16/7 facet [1] 24/10 facilitate [1] 21/19 facilitating [1] 3/10 fact [3] 20/1 22/9 22/16 factor [1] 11/10 factors [2] 10/4 19/10 facts [1] 36/7 factually [1] 20/9 failed [3] 35/16 35/16 35/17 fair [1] 22/7 far [1] 36/14 farm [13] 1/12 4/11 4/23 6/25 10/21 10/21 10/22 11/5 11/7 11/11 13/3 21/18 23/14 farming [1] 20/24 Farms [5] 7/17 11/2 19/1 24/14 25/11 fascinating [1] 23/22 favorable [1] 17/24 fax [3] 6/10 41/9 41/11 February [1] 15/15 Federal [2] 9/24 23/2 feel [1] 14/21 feet [23] 8/10 10/25 11/8 11/16 11/23 11/25 12/1 12/2 12/3 12/7 12/8 14/19 15/12 16/21 20/4 22/25 23/9 24/5 24/7 24/22 36/12 36/18 39/22 few [1] 38/24 figure [3] 19/23 36/21 39/17 fill [2] 4/6 14/1 filled [1] 13/25 finally [3] 7/16 26/10 30/22 financially [1] 38/9 first [6] 14/6 15/19 17/11 20/16 35/21 39/3 floodgates [2] 20/2 20/6 Florence [1] 27/18 flow [1] 11/9 flows [2] 10/9 20/24 followed [1] 7/12 following [3] 5/2 5/4 5/6 foregoing [2] 42/10 42/14 foreseeable [1] 12/6 forgot [1] 11/13 form [3] 18/6 27/24 42/13 formal [1] 5/16 formulating [1] 7/21</p>	<p>G</p> <p>Gail [2] 37/19 37/21 Gammage [9] 2/6 18/12 18/23 18/24 18/25 21/11 21/13 22/6 40/11 Gardner [4] 2/8 23/15 23/16 23/16 Gary [3] 2/5 16/10 16/13 general [3] 4/19 9/10 29/3 generation [1] 32/10 generational [1] 24/11 generations [2] 24/24 38/15 get [8] 15/21 16/6 20/18 20/21 20/22 35/13 38/3 38/5 gets [3] 18/19 40/13 40/14 getting [2] 40/3 40/4 Gila [2] 26/10 26/13 give [4] 13/9 14/5 17/24 27/1 giving [2] 33/13 34/25 go [2] 20/22 20/22 goes [4] 19/22 23/3 34/21 39/22 going [13] 14/16 19/17 22/13 23/20 25/17 26/15 27/1 33/12 33/15 36/5 36/18 36/19 37/10 gone [1] 37/24 good [15] 3/4 14/8 16/12 20/15 21/21 25/5 25/13 29/2 32/17 32/21 33/4 33/5 36/2 36/25 37/2 got [3] 35/3 39/23 39/24 governmental [1] 28/14 Grady [6] 2/6 18/12 18/22 18/25 34/4 40/11 Grande [1] 27/18 granted [2] 7/6 14/23 GRD [1] 20/18 great [2] 23/22 38/2 greater [1] 7/9 greed [1] 15/10 Greenstone [4] 14/18 16/20 18/4 26/19 gross [1] 11/2 groundwater [18] 7/23 11/25 20/19 22/2 24/18 24/21 24/22 24/25 25/1 25/4 25/6 25/20 26/6 26/17 29/21 36/12 36/15 38/15 group [1] 13/18 growing [1] 32/18 growth [5] 26/1 29/24 31/2 31/5 32/25 gsc [20] 1/12 4/11 4/23 6/24 7/17 10/21 10/21 10/22 11/2 11/5 11/7 11/11 12/16 13/3 19/1 21/17 23/14 24/14 25/10 33/16 GSC's [2] 19/16 19/23 guess [2] 30/22 33/11 guides [1] 7/14</p>	<p>H</p> <p>had [1] 35/22 hands [2] 20/4 21/9 happy [2] 28/24 28/24 Hardly [1] 20/5 harmful [1] 30/5 Harquahala [2] 26/1 26/2</p>
		<p>I</p> <p>I'd [1] 32/16 I'll [3] 7/16 31/12 34/8 I'm [18] 14/9 16/4 16/23 18/1 23/16 23/16 23/17 23/20 23/20 23/21 25/14 25/17 27/22 28/24 31/15 33/10 33/12 40/19 I've [4] 16/13 23/19 37/24 39/14 identify [1] 14/4 immediate [2] 19/12 24/17 impact [2] 19/13 32/11 impacted [1] 6/22 impacts [13] 6/20 6/24 7/1 7/4 10/1 10/5 10/7 10/8 10/9 10/15 10/16 10/18 22/8 implications [1] 31/21 importance [1] 8/16 important [8] 3/23 23/6 24/2 29/10</p>

I
important... [4] 29/19 32/13 34/12 36/3
inaccurate [1] 20/10
inasmuch [1] 28/12
incentive [1] 21/10
include [3] 11/15 12/7 26/9
includes [3] 9/9 12/16 38/9
including [5] 9/1 9/4 10/4 12/17 27/12
incorporated [1] 23/23
incorrect [1] 20/9
indeed [1] 26/8
Indian [1] 26/10
individual [2] 19/3 19/16
individuals [2] 6/21 13/24
industrial [1] 8/19
industry [2] 31/19 32/7
information [4] 6/12 6/14 7/5 11/4
infrastructure [1] 23/25
inherent [1] 15/1
inquiries [1] 3/21
inside [1] 17/19
intention [1] 25/1
intentions [1] 35/11
interested [1] 9/17
interests [3] 8/1 15/2 19/10
Interior [6] 3/18 6/19 8/4 8/5 18/3 39/15
interruptions [1] 13/20
invest [1] 15/3
investigated [1] 18/10
investing [1] 38/10
investments [3] 15/4 15/5 24/3
irrigable [2] 11/3 11/5
irrigated [1] 11/6
irrigation [10] 11/15 17/20 19/19 27/8
27/23 27/24 28/7 35/1 35/9 37/12
is [157]
issue [3] 6/17 10/12 34/12
issued [1] 18/6
issues [2] 5/24 7/7
it [62]
it's [21] 17/4 19/21 28/11 28/22 28/22
29/9 29/19 31/23 32/18 33/4 33/4 33/5
33/11 36/2 36/25 37/6 39/4 39/4 39/11
40/4 40/8
its [12] 9/14 9/15 18/4 22/16 24/21
30/14 30/15 36/6 36/10 39/20 40/7
40/9

J
Jamie [3] 2/11 29/1 29/3
Joanna [1] 21/4
jobs [1] 32/7
June [1] 17/16
Junior [1] 18/25
just [7] 16/7 26/14 35/12 36/13 38/23
39/2 40/20
justice [2] 22/17 22/17

K
Kamps [4] 2/12 31/14 31/15 31/15
KARTHA [21] 3/4 3/8 16/10 18/17
18/22 18/24 21/11 21/14 21/15 23/15
25/12 26/20 29/1 31/7 31/10 31/14
33/8 34/24 37/19 38/18 40/21
Kelley [7] 2/11 29/1 29/2 29/3 31/7 31/9
31/12
key [2] 7/16 38/12
kind [2] 16/2 32/5
Kingman [1] 40/19
Kirk [2] 26/20 26/22

know [9] 4/2 16/4 23/19 30/3 34/20
35/12 35/14 38/4 40/2
known [2] 23/10 42/10
Kyl [2] 32/22 33/22

L
La [10] 9/22 10/22 14/10 18/19 25/14
25/19 25/21 26/16 39/9 40/13
La Paz [8] 10/22 14/10 18/19 25/14
25/19 25/21 26/16 39/9
land [9] 11/3 11/18 21/7 21/9 29/17
30/10 30/16 30/20 37/9
landowner [1] 30/9
lands [6] 11/11 11/14 23/2 26/9 26/9
30/7
large [1] 14/22
last [4] 15/9 32/16 39/25 40/21
Lastly [1] 28/6
later [2] 14/24 41/8
latest [1] 26/8
latter [1] 22/20
laughter [1] 35/5
law [5] 22/12 22/21 26/4 28/16 32/3
lawyers [1] 34/21
leading [1] 14/8
lean [1] 32/10
lease [4] 6/22 9/7 17/23 26/12
leases [2] 9/1 9/4
leave [1] 25/6
leaving [3] 25/21 25/23 30/7
left [3] 15/13 20/22 26/23
legal [3] 25/3 31/23 33/4
legally [1] 34/20
legitimate [2] 27/19 28/18
less [2] 36/18 37/4
let [5] 4/2 27/7 34/14 40/23 41/3
Let's [1] 33/16
letter [6] 15/15 18/12 18/18 20/10
20/13 40/10
Levy [1] 3/14
Libera [4] 2/9 25/12 25/13 25/14
life [2] 29/8 34/16
like [15] 6/15 19/7 19/19 20/4 20/13
21/19 24/3 29/13 31/18 32/16 34/3
36/13 40/22 41/7 41/14
limit [2] 21/24 23/3
limited [1] 23/24
lines [1] 39/10
Lisa [2] 33/8 33/11
list [2] 9/16 9/18
listen [2] 3/19 13/21
listing [1] 35/4
little [4] 27/1 35/3 35/13 36/17
live [1] 37/22
LLC [4] 1/12 6/25 10/21 10/21
LLC's [2] 4/11 13/3
lo [1] 40/13
local [2] 30/9 30/15
located [3] 10/22 11/21 24/14
locations [1] 5/13
long [5] 17/9 19/22 24/10 28/2 37/25
long-term [1] 24/10
longer [2] 30/16 30/16
look [2] 27/20 37/18
looked [1] 37/16
looking [2] 21/1 35/20
looks [1] 22/7
lot [1] 32/23
loud [1] 33/15
love [1] 14/8

M
m'mm [1] 36/20
Madam [1] 27/3
made [5] 22/14 28/23 34/5 35/25 36/2
mail [2] 41/9 41/14
mailing [1] 41/15
mainstream [4] 7/14 8/18 9/5 17/8
maintains [1] 9/16
major [1] 21/24
make [15] 4/9 5/11 13/1 14/13 19/8
21/16 23/4 25/15 27/5 30/17 32/16
34/7 36/6 38/6 39/11
makes [2] 3/17 37/2
making [1] 3/20
manage [1] 28/4
management [9] 7/20 17/19 21/21 25/2
28/11 40/1 40/2 40/3 40/5
Manager [1] 3/8
managing [1] 8/9
mandate [1] 25/8
manner [1] 5/17
many [2] 19/4 22/1
Marana [4] 27/23 27/24 27/25 28/3
Maricopa [1] 11/21
matter [2] 17/2 33/19
matters [2] 8/1 8/5
may [6] 6/4 6/21 7/6 10/18 11/14 26/22
maybe [1] 41/6
Mayor [5] 2/15 37/20 37/21 37/22
40/11
McCarville [2] 26/21 26/22
McEachern [1] 3/12
me [11] 3/11 3/14 4/1 4/2 5/25 16/5
16/6 27/7 28/16 34/14 37/16
meaning [2] 23/7 27/20
means [2] 17/9 21/9
meeting [13] 1/9 3/10 4/8 5/16 5/23
5/25 6/1 6/2 12/25 16/17 28/20 41/8
41/18
meetings [9] 5/8 5/13 14/14 14/15
16/18 23/19 25/16 34/7 38/25
member [1] 26/9
members [6] 4/9 5/10 6/1 12/25 27/15
31/19
memorialized [1] 19/20
mention [2] 11/13 23/8
mentioned [7] 5/14 5/17 12/24 24/4
28/16 34/19 41/5
mentioning [1] 37/11
Mexico [1] 19/14
Michael [7] 2/7 2/10 21/17 35/3 37/11
37/15 38/21
microphone [1] 13/9
might [2] 19/25 20/1
Mike [2] 21/14 26/24
million [7] 8/9 18/15 32/8 39/21 40/14
40/16 40/16
mind [1] 21/20
minimize [1] 24/21
minute [1] 34/25
minutes [1] 13/15
mitigate [2] 7/4 10/18
Mohave [14] 14/10 16/9 16/9 16/11
16/14 17/1 17/2 17/8 17/19 17/20
18/14 29/3 38/23 38/23
Monday [2] 5/6 5/7
money [1] 37/2
more [12] 7/6 13/14 15/10 16/6 25/21
26/16 26/25 27/1 36/22 36/24 36/25
37/3

M
morning [8] 3/4 14/8 16/12 20/1 21/5
21/20 25/13 29/2
most [4] 8/18 13/16 32/13 36/2
move [3] 12/22 25/6 37/2
moving [2] 34/15 37/16
MR [18] 16/12 18/17 18/19 18/24 21/11
21/13 21/15 22/6 23/16 25/13 27/3
31/15 34/4 35/2 35/7 35/8 38/20 40/11
Mr. [1] 26/24
Mr. Curtis [1] 26/24
MS [24] 3/4 14/8 16/10 18/17 18/22
21/11 21/14 21/15 23/15 25/12 26/20
29/1 29/2 31/7 31/7 31/9 31/10 31/12
31/14 33/8 34/24 37/19 38/18 40/21
Ms. [1] 18/24
Ms. Kartha [1] 18/24
much [10] 16/19 18/21 22/9 25/6 34/23
36/7 36/22 38/17 39/18 39/19
multi [1] 24/10
multi-facet [1] 24/10
multiple [1] 35/1
municipal [2] 27/14 28/13
municipalities [4] 24/1 27/11 27/18 28/9
must [3] 9/14 17/9 23/22
my [17] 3/7 7/10 12/21 14/11 18/24
18/25 21/17 21/20 23/21 25/13 25/14
29/2 31/19 37/17 38/20 42/13 42/15
myself [1] 34/15

N
name [9] 3/7 13/9 14/3 14/4 14/6 18/25
21/17 25/13 29/2
names [1] 13/23
natural [2] 22/17 22/17
near [4] 4/4 14/1 32/14 35/12
nearly [1] 24/21
necessary [1] 9/6
need [6] 19/5 28/4 28/18 36/22 36/22
37/13
needed [3] 6/19 7/7 10/14
needs [6] 22/16 27/19 28/20 32/1 32/2
32/20
negative [5] 6/20 6/23 10/5 10/15 10/16
negatively [2] 6/22 19/13
neon [1] 36/13
never [1] 22/12
new [1] 18/6
newspaper [3] 4/19 9/10 9/19
next [20] 16/5 16/10 18/22 21/14 23/15
23/20 24/23 25/12 26/20 26/24 27/4
29/1 31/12 31/14 33/8 34/7 34/24
35/14 37/19 38/18
NIA [1] 24/7
nice [1] 40/10
no [15] 1/25 13/14 23/7 23/8 29/21
30/7 30/16 30/16 30/21 34/14 40/23
41/3 41/8 42/12 42/25
No 50459 [1] 1/25
noble [7] 2/14 22/1 34/24 34/25 35/2
35/8 35/8
non [1] 9/24
non-Federal [1] 9/24
north [2] 17/5 18/25
nose [1] 34/14
not [31] 3/20 5/22 13/25 15/4 15/19
16/8 17/11 17/24 18/10 19/18 21/3
25/22 27/5 28/13 29/11 29/12 29/17
30/2 30/3 30/20 32/17 33/16 33/17
33/18 35/21 37/1 37/7 37/16 39/4 39/8

39/16
note [3] 29/10 29/19 31/18
nothing [1] 23/3
notice [7] 4/23 6/11 9/8 9/8 9/12 9/15
9/21
notices [1] 9/17
notification [1] 7/2
notify [1] 6/24
notion [1] 25/21
November [6] 1/15 3/5 4/18 4/18 9/21
9/21
November 14th [1] 4/18
November 19th [1] 3/5
now [12] 7/8 12/22 13/23 15/1 15/8
19/20 34/8 34/19 37/7 39/24 41/12
41/18
number [5] 16/14 16/15 31/23 32/13
41/11

O
objective [1] 33/2
observe [1] 3/19
obtain [4] 8/14 26/15 30/19 30/23
obtained [1] 26/3
obvious [1] 33/11
obviously [4] 31/21 31/23 32/6 32/18
occur [2] 10/10 32/25
off [5] 14/9 20/18 20/18 35/22 36/15
offers [1] 26/2
office [2] 5/19 9/13
offsetting [1] 24/18
Oh [1] 11/13
Okay [1] 31/9
on-river [8] 29/7 29/9 29/20 30/6 30/12
30/25 31/4 34/13
once [2] 9/9 33/20
one [18] 5/25 6/15 11/13 13/7 13/7
14/1 20/5 21/25 24/12 26/25 29/20
30/1 31/23 33/23 37/6 38/2 40/23 41/3
only [4] 8/19 13/7 20/3 29/21
open [1] 20/1
opportunities [2] 5/11 31/5
opportunity [9] 4/9 13/1 13/6 13/15
14/12 29/5 30/1 33/14 38/1
oppose [2] 17/9 34/22
opposed [5] 14/17 20/12 34/2 35/24
36/16
opposes [1] 17/3
opposition [1] 29/5
oral [3] 4/9 5/11 13/1
organization [1] 13/18
origin [1] 9/13
Oro [1] 28/3
other [14] 10/6 10/7 10/9 12/16 18/8
23/5 24/1 25/24 26/12 28/23 29/11
29/13 30/9 30/15
other's [1] 13/21
others [2] 19/14 28/16
Otondo [4] 2/13 33/9 33/10 33/11
our [20] 6/1 14/22 17/15 18/22 31/19
32/7 32/15 32/22 34/2 34/16 34/18
38/2 38/3 38/10 38/11 38/14 39/8 39/9
39/11 40/21
out [17] 4/6 11/3 13/25 14/1 16/4 19/23
20/14 28/12 28/16 28/22 32/23 36/21
37/17 38/4 39/18 40/17 41/12
outline [1] 32/25
outside [1] 5/24
outstanding [1] 7/7
over [6] 14/23 15/7 24/22 32/8 35/11

36/12
overall [1] 24/12
overview [2] 7/11 7/12
own [3] 30/14 33/16 40/15
owned [1] 23/2
owner [1] 24/14
ownership [2] 21/7 29/13
owns [2] 11/2 37/9

P
p.m [3] 5/6 6/6 41/6
pack [1] 34/11
PAGE [1] 2/3
pages [1] 42/14
paper [4] 20/1 21/5 32/23 33/21
Parker [3] 5/9 16/19 25/16
particular [3] 9/20 36/8 36/11
particularly [1] 30/5
parties [9] 6/20 7/3 7/6 9/17 10/15
10/17 26/12 31/24 32/4
partnerships [1] 27/13
past [2] 19/13 28/24
Patrick [3] 2/16 38/18 38/22
Paul [3] 2/8 23/15 23/16
Paz [10] 9/22 10/22 14/10 18/19 25/14
25/19 25/21 26/16 39/9 40/13
Pearce [4] 2/7 21/14 21/15 21/17
pending [3] 4/10 6/5 13/2
people [9] 18/13 19/4 20/12 21/9 23/19
34/10 36/25 37/3 40/4
per [2] 10/25 11/16
percent [8] 11/10 15/8 15/9 15/12 20/5
39/23 39/24 39/25
PERFECTA [1] 1/24
peril [1] 31/3
period [2] 10/14 32/2
permanently [1] 20/8
permitted [1] 24/16
person [5] 13/6 13/7 13/8 14/4 40/2
persons [1] 28/15
pertinent [1] 10/9
Phoenix [6] 1/15 3/7 19/1 25/8 41/17
42/17
piece [1] 25/18
Pima [2] 27/22 28/6
Pinal [4] 11/21 27/9 36/12 36/15
place [2] 12/13 20/21
plan [2] 16/5 34/6
Planning [2] 9/12 9/22
plans [1] 7/21
please [10] 3/24 4/2 4/3 4/6 5/21 13/19
13/25 14/3 16/7 41/9
PO [1] 41/17
podium [1] 14/4
point [3] 12/13 32/6 32/16
pointed [2] 28/12 28/22
points [1] 35/25
policy [20] 4/15 4/15 4/25 7/13 7/13
8/21 8/24 8/24 9/1 17/2 22/5 32/17
32/21 33/5 36/3 36/7 36/9 36/25 37/2
39/2
Pollack [1] 32/9
position [4] 15/17 15/17 17/2 33/12
positive [1] 32/11
possible [1] 25/6
posted [3] 5/20 6/12 9/20
potential [4] 6/23 10/1 10/5 29/24
potentially [1] 11/17
powerful [1] 15/1
precedent [1] 16/1

<p>P</p> <p>predecessor [1] 39/20 Prepared [1] 1/24 presentation [2] 7/10 12/21 press [2] 36/10 40/15 pretty [1] 39/9 preventing [1] 24/21 previously [2] 5/15 5/17 prior [1] 21/23 priority [21] 1/10 4/11 10/25 11/16 13/3 14/20 15/8 15/12 15/20 15/22 16/22 17/3 17/12 17/23 18/10 19/20 23/6 29/10 29/15 31/1 37/6 private [14] 19/18 19/22 19/23 20/4 20/14 20/14 21/9 28/15 28/15 29/13 29/17 39/3 39/4 39/6 privately [1] 23/2 privately-owned [1] 23/2 procedure [2] 4/15 8/25 proceed [1] 13/20 proceeding [1] 3/20 proceedings [1] 42/10 process [11] 9/8 9/8 13/13 16/17 19/2 19/6 19/6 25/10 31/19 32/1 32/2 production [1] 11/12 profit [1] 30/14 Program [1] 32/20 programs [2] 5/24 7/21 prohibited [1] 19/5 Project [1] 22/24 promoting [1] 8/8 property [7] 20/24 24/13 28/15 29/17 39/3 39/4 39/6 proponents [1] 36/23 proposal [4] 14/17 15/25 28/10 35/25 proposals [1] 28/23 propose [1] 14/19 proposed [29] 1/10 4/11 4/17 4/23 5/2 5/3 5/5 5/12 6/18 6/22 7/8 7/17 8/22 9/3 9/9 9/23 10/10 12/4 12/12 12/22 13/2 16/18 16/21 17/17 18/4 24/13 29/5 29/8 38/13 proposing [3] 11/7 12/9 21/25 prosperous [1] 35/14 protect [1] 28/1 protecting [1] 8/8 protocol [1] 22/5 provide [12] 4/8 5/10 7/3 7/5 7/11 7/16 9/12 9/15 10/17 12/25 14/2 25/25 provided [1] 11/4 provides [1] 10/20 providing [2] 29/4 41/19 public [18] 1/9 4/9 4/23 5/10 6/11 9/8 9/8 10/11 12/22 12/25 13/16 14/13 17/2 19/18 19/19 32/1 41/18 41/20 published [1] 33/22 pump [1] 25/4 pumped [1] 24/22 pumping [2] 20/19 22/2 purchase [3] 12/17 17/17 24/13 purpose [4] 4/8 9/25 12/24 33/3 purposes [1] 37/10 pursuant [3] 4/14 7/19 7/24 pursue [2] 24/2 30/14 put [5] 19/11 35/15 35/16 35/17 40/11 putting [1] 36/13</p> <hr/> <p>Q</p> <p>quality [2] 10/6 10/8 quantification [1] 11/9</p>	<p>quantity [1] 23/9 Quartzsite [1] 17/22 quasi [1] 19/19 QUEEN [45] question [1] 30/22 questions [2] 5/22 5/23 quick [1] 25/17 quite [4] 18/20 20/11 22/6 22/7</p> <hr/> <p>R</p> <p>R.gov [1] 41/13 raid [3] 40/7 40/7 40/8 rate [1] 25/20 read [1] 33/20 reality [1] 20/12 really [2] 21/2 34/17 reasons [3] 20/16 31/22 33/4 received [1] 18/12 receiving [1] 11/20 recently [1] 32/22 Reclamation [9] 10/24 15/16 18/3 18/5 18/7 19/21 22/24 36/6 39/15 recognize [2] 17/13 31/25 recognized [2] 22/21 28/15 recognizes [3] 28/4 31/19 32/3 recognizing [2] 22/18 27/4 recommend [4] 18/2 23/13 33/6 33/20 recommendation [7] 3/18 6/17 10/13 17/25 24/6 26/18 36/6 recommendations [1] 33/24 recommended [1] 24/7 record [9] 3/5 3/22 3/25 14/9 16/13 26/22 32/24 40/23 41/3 recording [1] 5/18 recover [2] 12/11 30/2 recovering [1] 24/18 recovery [1] 24/16 redistribution [1] 10/2 reduce [1] 38/14 reduced [1] 42/13 Reducing [1] 24/25 referenced [1] 21/4 references [1] 20/7 reflect [2] 40/23 41/3 regard [1] 8/7 regarding [4] 6/5 6/17 16/17 36/2 Regina [2] 2/4 14/7 reiterated [1] 17/1 related [1] 10/8 relating [2] 8/1 8/6 relatively [1] 20/2 release [2] 36/10 40/15 relevant [1] 13/12 reliance [3] 24/21 24/25 38/14 remains [1] 21/9 removes [1] 29/23 removing [1] 26/16 renewable [6] 20/19 24/19 25/1 32/20 33/1 33/25 Replenishment [1] 26/7 reported [1] 42/11 reporter [6] 3/22 3/25 5/17 13/22 42/12 42/24 REPORTING [1] 1/24 represent [6] 14/5 14/10 16/14 21/17 31/16 35/9 representative [4] 7/25 13/17 14/7 14/9 represented [1] 20/11 representing [3] 26/25 35/1 38/22 represents [2] 21/20 37/12</p>	<p>Republic [2] 4/19 9/20 request [7] 11/22 12/5 12/15 16/8 27/5 27/10 30/8 requested [1] 10/19 require [1] 17/18 required [1] 8/13 requiring [1] 24/1 rescuing [1] 27/15 reserve [1] 39/13 reserved [6] 15/7 15/11 15/18 20/8 22/11 30/12 resident [1] 29/7 resolve [5] 6/20 7/4 7/7 10/15 10/17 Resource's [1] 16/25 resources [13] 1/8 3/7 3/10 3/14 3/16 8/7 13/11 18/8 18/9 23/25 33/6 36/5 41/16 respectful [2] 13/12 13/19 respectfully [1] 34/3 responding [2] 3/21 5/22 response [1] 37/17 responsibilities [1] 8/11 responsible [2] 7/20 20/18 rest [1] 39/21 result [4] 10/10 20/13 38/5 40/12 retired [1] 11/12 retreat [1] 34/9 return [2] 10/9 11/9 revenue [1] 40/11 revenues [1] 32/10 review [6] 5/19 9/23 10/3 10/12 31/20 32/1 Revised [2] 7/19 26/4 right [30] 19/16 19/22 19/23 20/5 20/14 20/14 20/15 21/24 22/15 22/18 22/19 23/4 25/3 28/14 29/15 29/17 29/18 30/11 31/20 33/17 33/17 33/18 37/9 39/2 39/4 39/4 39/5 39/6 40/20 40/20 right-to-use [1] 30/11 rights [5] 15/8 17/12 24/13 28/13 28/14 rise [1] 16/24 risk [1] 20/5 river [65] Road [1] 37/23 roads [1] 24/3 robust [1] 24/4 Roosevelt [2] 12/10 24/15 roughly [1] 7/10 RPR [2] 1/24 42/24 rural [7] 1/24 15/3 15/6 29/9 30/25 34/2 34/18</p> <hr/> <p>S</p> <p>S-S-C-A-N-T-L-E-B-U-R-Y [1] 41/13 safe [1] 25/7 safe-yield [1] 25/7 said [4] 22/6 22/16 35/12 37/16 sale [1] 17/17 Salt [1] 22/14 same [3] 29/11 31/4 37/8 sat [1] 37/15 Saturday [1] 5/5 save [2] 36/12 36/14 say [8] 16/7 21/19 23/3 25/17 27/7 36/3 36/20 38/24 says [5] 22/25 36/14 37/2 37/3 40/15 Scantlebury [5] 3/13 4/7 6/9 41/10 41/16 Schulte [4] 1/24 42/11 42/23 42/24 scope [1] 5/24</p>
---	---	---

S		T
<p>second [4] 5/2 5/4 26/6 32/6 Secondly [1] 20/20 secretary [6] 3/18 6/18 7/5 8/4 8/5 23/4 Section [6] 3/9 10/23 12/18 19/20 26/4 29/14 sections [1] 7/11 secure [1] 31/2 see [2] 15/9 31/12 seeing [2] 16/5 16/7 seek [2] 30/9 32/19 seen [1] 37/24 seep [1] 15/2 segment [1] 12/23 selecting [1] 13/17 sell [3] 22/19 36/21 36/21 Senator [4] 2/13 33/8 33/10 33/10 sense [1] 30/18 sent [3] 9/17 9/21 32/23 serve [3] 7/25 11/18 29/3 service [2] 9/16 12/12 set [1] 15/25 setting [1] 16/1 settled [1] 39/20 seventies [1] 39/17 several [2] 10/4 20/16 shall [3] 12/22 22/25 23/3 shared [2] 32/10 40/12 Sharon [6] 3/13 4/7 6/9 14/2 41/9 41/16 Sharon's [2] 6/12 6/13 sheet [1] 4/4 should [13] 6/8 13/8 13/10 13/11 13/12 15/13 19/5 30/12 30/19 30/20 32/25 37/1 37/1 show [1] 26/22 shown [1] 5/13 sic [1] 15/23 sign [3] 4/3 4/4 6/14 sign-in [2] 4/4 6/14 similar [1] 35/20 simply [5] 20/9 20/13 30/3 34/1 40/19 single [1] 13/17 sister [3] 27/11 27/17 28/8 skill [1] 42/15 slide [1] 10/20 Slosser [1] 22/14 slowly [1] 3/24 small [1] 20/17 snapshot [1] 10/20 so [21] 3/24 4/3 7/10 7/19 13/7 13/15 14/11 16/5 16/7 18/1 26/14 26/17 27/1 27/25 28/24 33/3 33/11 34/25 35/14 37/24 38/17 solely [1] 15/5 solution [2] 27/21 28/20 solutions [1] 27/21 some [7] 6/21 15/20 22/11 23/10 32/24 35/13 36/1 somehow [1] 22/10 someone [1] 35/12 something [1] 21/8 sorry [1] 26/2 sound [4] 28/11 40/1 40/3 40/5 sounds [1] 40/2 source [3] 29/20 30/23 31/2 sources [5] 12/7 25/24 30/9 30/15 33/25 south [1] 17/5 speak [14] 3/24 3/24 4/6 13/6 13/8 13/15 13/18 13/25 26/25 29/5 33/14</p>	<p>38/1 40/22 40/24 speaker [10] 2/3 4/1 4/5 4/6 13/14 13/19 13/24 13/25 18/22 40/21 speakers [2] 3/24 13/8 speaking [2] 22/22 33/23 Specialist [1] 3/14 specifically [5] 8/2 15/11 15/11 22/22 32/25 speculative [1] 22/11 spell [1] 41/12 Spencer [3] 2/12 31/14 31/15 spoken [2] 39/1 39/14 sscantlebury [2] 6/10 41/12 staff [1] 6/1 stand [4] 31/17 31/18 31/22 33/12 standpoint [1] 32/7 starting [1] 23/21 starts [1] 26/25 state [23] 4/20 7/23 7/24 8/3 8/12 8/18 9/11 14/4 14/6 14/22 14/22 16/2 21/23 22/12 23/2 23/10 25/7 32/12 33/4 38/25 39/16 39/16 42/12 State's [2] 7/25 8/1 statement [7] 4/15 4/25 7/13 7/13 8/21 8/24 9/2 statements [2] 5/18 36/1 states [7] 5/1 6/18 8/5 11/22 12/6 22/24 30/8 status [1] 32/19 statute [5] 7/19 7/24 8/12 22/21 26/4 stay [1] 39/19 stewards [1] 25/5 still [1] 24/8 Storage [1] 26/13 store [1] 12/9 storing [1] 24/18 straight [1] 33/16 strategy [1] 24/12 Street [1] 35/9 strong [1] 34/4 strongly [2] 33/19 34/22 study [1] 32/9 subject [3] 9/7 29/12 33/19 submit [5] 4/7 6/4 40/25 41/4 41/7 submitted [5] 6/8 9/7 12/16 13/24 41/6 subsequent [2] 25/16 27/17 subserved [1] 22/18 substantive [4] 4/14 4/25 7/13 8/21 successful [1] 38/13 such [2] 3/23 19/11 suggest [2] 34/1 34/10 Supervisor [5] 3/13 6/9 16/11 41/10 41/17 supervisors [1] 25/15 supplies [7] 10/5 10/7 11/14 12/8 20/19 28/5 32/20 supply [7] 8/19 11/18 11/25 12/1 12/1 32/19 33/1 support [9] 28/10 28/25 31/17 31/18 31/22 32/14 33/20 37/13 38/16 supported [1] 28/19 supporting [2] 12/17 27/11 supportive [1] 27/9 supposedly [1] 36/17 sure [1] 39/11 surface [3] 7/22 29/11 29/13 surrounding [1] 36/7 sustainability [2] 38/8 38/12</p>	<p>table [3] 4/4 4/5 14/1 take [7] 18/10 18/18 31/10 35/22 36/15 36/19 37/3 takes [2] 15/16 17/10 taking [2] 34/2 38/10 talk [2] 22/9 38/3 talked [1] 33/24 talking [2] 28/13 28/14 tax [1] 32/9 tell [1] 34/13 telling [1] 23/20 tent [2] 34/14 34/15 term [2] 24/10 40/8 testified [1] 32/4 than [10] 13/14 15/10 20/11 20/11 26/25 28/23 36/18 36/22 37/6 41/8 thank [24] 14/14 16/9 16/15 16/19 18/21 18/21 18/24 21/13 21/15 23/14 23/18 25/11 26/19 27/4 29/4 33/10 33/13 34/23 36/9 37/11 37/21 37/25 38/17 41/18 thanks [1] 38/24 that [127] that's [14] 20/5 21/7 26/17 32/14 32/18 33/25 36/17 36/18 36/19 36/23 37/1 40/2 40/7 40/16 their [11] 8/13 13/9 14/24 15/4 15/5 17/14 17/23 28/4 28/15 31/1 33/17 them [4] 23/20 25/17 41/2 41/9 then [2] 14/5 30/14 there [12] 4/5 10/16 15/20 18/8 20/21 20/23 25/23 28/6 34/9 36/20 40/22 40/25 there's [6] 22/9 23/7 23/8 29/21 30/3 35/5 therefore [3] 13/5 22/17 36/25 these [18] 8/11 11/11 11/14 11/24 12/18 14/21 15/19 22/4 23/5 23/7 23/18 28/18 31/3 31/20 31/20 32/3 34/7 38/25 they [28] 6/22 17/16 18/13 23/19 23/21 25/15 27/19 28/11 29/20 30/19 30/22 30/23 32/24 33/17 33/18 34/10 35/15 35/15 35/16 35/17 36/20 36/22 37/13 39/6 39/16 40/6 40/11 41/1 They'll [1] 18/15 they're [2] 14/16 28/10 they've [1] 35/25 thing [5] 11/13 20/18 21/4 35/14 36/2 things [6] 19/11 37/2 38/2 38/24 39/1 40/19 think [13] 23/21 28/18 28/19 29/9 29/19 32/11 33/1 34/5 36/19 39/2 40/4 40/7 40/8 third [3] 6/20 10/15 21/4 this [101] this as [1] 15/10 those [13] 5/13 14/15 17/15 17/20 18/9 19/14 26/14 28/1 28/25 29/22 35/24 36/20 37/4 threat [1] 29/8 three [9] 7/11 13/15 16/5 26/1 26/14 26/14 28/18 28/25 33/21 through [5] 11/24 24/14 24/17 32/2 34/21 throughout [2] 7/23 39/17 time [21] 3/6 6/19 7/7 10/14 13/8 13/16 16/4 17/11 18/17 19/23 21/11 25/19 25/19 27/2 27/25 31/7 34/23 35/3</p>

<p>T</p> <p>time... [3] 35/17 37/25 38/20 times [4] 5/12 16/14 33/21 33/21 tired [1] 16/7 today [24] 3/5 3/15 3/22 4/6 7/10 13/6 14/9 14/13 14/18 16/17 16/24 18/1 19/2 25/15 25/24 26/3 26/7 26/11 28/2 33/14 35/20 37/15 38/8 40/4 today's [7] 3/10 4/8 5/16 5/22 5/25 12/25 13/22 together [1] 38/3 told [1] 23/19 Tom [3] 3/15 16/15 17/1 tomorrow [1] 34/8 touted [1] 36/11 towards [1] 32/10 town [28] 1/12 4/12 5/9 6/25 7/17 11/20 11/22 13/4 16/20 16/23 17/22 18/5 18/14 21/18 23/14 23/17 23/18 23/24 24/1 24/9 24/16 24/20 25/3 25/5 25/7 25/11 27/25 38/7 trade [1] 18/20 transaction [2] 31/25 32/5 transcript [2] 5/18 42/15 transfer [60] transferred [8] 11/11 12/10 21/6 21/7 24/20 26/3 30/17 39/7 transferring [4] 4/16 8/25 10/21 37/8 transfers [17] 7/14 9/3 14/21 15/20 15/21 16/1 19/3 19/4 19/7 19/17 20/2 22/4 22/6 29/23 30/6 31/21 34/17 treaties [1] 19/13 tried [1] 15/21 trip [1] 23/21 true [1] 42/14 try [2] 19/6 27/5 trying [2] 20/17 32/18 Tucson [2] 28/1 28/3 Tuesday [1] 3/5 turn [1] 20/22 twice [1] 33/20 two [3] 9/10 31/24 32/3 type [1] 12/13 types [1] 22/4</p>	<p>35/7 36/24 37/5 39/5 used [5] 13/16 19/12 21/2 22/20 37/6 users [6] 8/20 9/15 23/1 23/5 27/14 30/12 uses [1] 11/17 Utility [1] 23/17 utilize [1] 9/3 utterly [1] 25/21</p> <p>V</p> <p>vaguely [1] 23/11 valley [5] 11/15 22/14 24/1 28/3 28/7 value [2] 40/9 40/16 variety [1] 27/11 various [1] 40/12 vast [1] 23/9 versus [1] 22/14 very [18] 3/23 16/19 18/21 19/22 20/17 20/20 22/1 24/4 27/15 27/17 28/2 28/18 34/5 34/7 34/23 35/20 38/17 40/19 viability [1] 31/1 vibrant [1] 34/4 vice [1] 16/13 view [2] 32/22 40/19 viewing [1] 12/19 Vineetha [1] 3/8 voices [1] 17/15 volume [1] 11/8 vote [1] 17/16</p>	<p>what's [1] 37/24 when [8] 5/20 14/3 19/8 25/19 32/2 32/2 35/2 40/1 when it [1] 32/2 where [6] 14/16 23/6 23/19 26/14 33/11 34/1 whereas [1] 14/18 WHEREUPON [2] 35/5 41/20 whether [1] 39/3 which [14] 5/6 11/3 11/16 11/17 21/5 24/7 25/7 27/5 28/8 30/16 30/16 32/11 36/11 37/9 While [2] 18/19 25/3 white [1] 33/21 who [10] 13/6 13/24 21/10 31/24 35/24 36/20 37/4 40/4 40/22 40/25 why [6] 30/11 30/19 30/20 36/2 36/9 40/8 will [53] willing [1] 31/24 willingness [1] 32/3 wiping [1] 20/13 wish [3] 6/4 13/24 17/13 wishes [4] 13/6 40/23 40/25 41/3 withdraw [1] 17/17 within [11] 4/19 6/16 9/11 9/13 9/15 10/13 10/22 11/21 12/10 12/11 14/22 without [5] 13/20 21/6 25/23 26/15 31/2 won't [1] 34/8 words [3] 23/5 23/7 39/14 work [1] 36/19 worked [2] 27/17 39/17 works [2] 28/2 28/8 would [17] 6/15 16/2 21/19 22/1 23/12 26/18 30/23 31/18 32/14 34/3 36/11 39/6 39/18 39/19 40/22 41/7 41/14 wouldn't [1] 19/5 written [14] 4/10 5/11 6/3 6/6 6/8 13/1 20/11 31/11 40/10 41/1 41/4 41/5 41/7 42/13 www.new.azwater.gov [1] 4/23 www.new.azwater.gov/public-notice/pro posed-transfer-gsc-farm [1] 4/23</p>
<p>U</p> <p>U.S [1] 10/23 unanimous [1] 17/16 under [8] 8/11 19/14 26/3 26/4 29/14 34/14 39/5 42/13 undisclaimed [1] 23/10 unique [5] 20/20 27/20 27/21 28/12 28/20 United [3] 6/18 8/5 22/24 unless [2] 6/19 10/14 unmeasured [1] 11/9 unrecognized [1] 23/10 until [3] 5/6 6/6 41/6 unusual [4] 20/2 20/20 21/8 37/7 up [12] 3/24 7/3 10/17 14/3 15/25 16/1 16/24 17/5 18/18 21/12 31/8 36/13 upon [3] 7/2 30/25 39/20 urban [4] 8/19 20/8 25/25 28/20 urbanization [2] 27/20 28/17 us [9] 13/20 14/9 14/18 21/16 25/6 33/13 33/15 37/7 37/13 use [27] 7/22 11/8 12/13 12/13 13/8 17/5 19/12 20/8 21/22 21/23 21/25 22/2 22/11 22/20 24/17 24/18 29/15 29/16 29/18 29/22 30/11 30/12 30/15</p>	<p>W</p> <p>Wade [4] 2/14 34/24 34/25 35/8 wages [1] 32/8 waiting [1] 24/8 walk [1] 38/4 walls [1] 24/16 want [11] 13/5 14/13 16/7 16/15 23/19 27/3 33/13 36/14 37/5 37/25 39/11 wanted [1] 38/24 war [1] 16/2 was [18] 9/20 9/21 12/15 14/23 19/2 19/16 22/15 22/22 24/7 27/4 27/5 33/21 34/19 36/13 37/17 39/20 40/21 41/20 water [161] waters [1] 14/20 Watson [6] 2/5 16/10 16/12 16/13 18/17 18/19 way [2] 33/19 36/21 we [55] we'd [2] 25/9 35/14 we're [12] 19/2 21/24 24/8 27/1 28/13 28/14 28/24 34/25 35/20 36/14 36/18 36/23 we've [1] 35/22 wealth [1] 29/25 website [5] 4/22 5/14 5/20 6/13 12/20 week [1] 9/9 weeks [1] 9/10 weigh [1] 19/11 welcome [5] 15/3 15/4 15/4 33/14 34/22 welfare [1] 8/17 well [4] 9/18 12/18 23/21 34/20 were [6] 9/17 27/15 28/2 39/5 39/10 42/11 west [2] 17/8 35/8 what [9] 18/13 19/24 21/1 22/1 32/17 35/20 36/23 40/6 40/6</p>	<p>Y</p> <p>Yeah [1] 39/9 year [4] 11/1 11/16 35/18 36/10 years [7] 14/23 24/23 27/17 35/11 37/24 39/7 39/11 yield [2] 25/7 38/20 you [62] you'll [1] 16/6 you're [2] 33/15 33/23 young [1] 23/23 your [14] 3/19 3/25 4/7 14/2 14/3 14/4 14/5 18/17 18/18 21/11 31/7 31/11 34/23 41/14 Yuma [12] 5/10 16/9 16/19 33/11 33/15 34/10 34/11 34/23 35/9 35/10 37/9 37/17</p> <p>Z</p> <p>Zoning [2] 9/12 9/22</p>