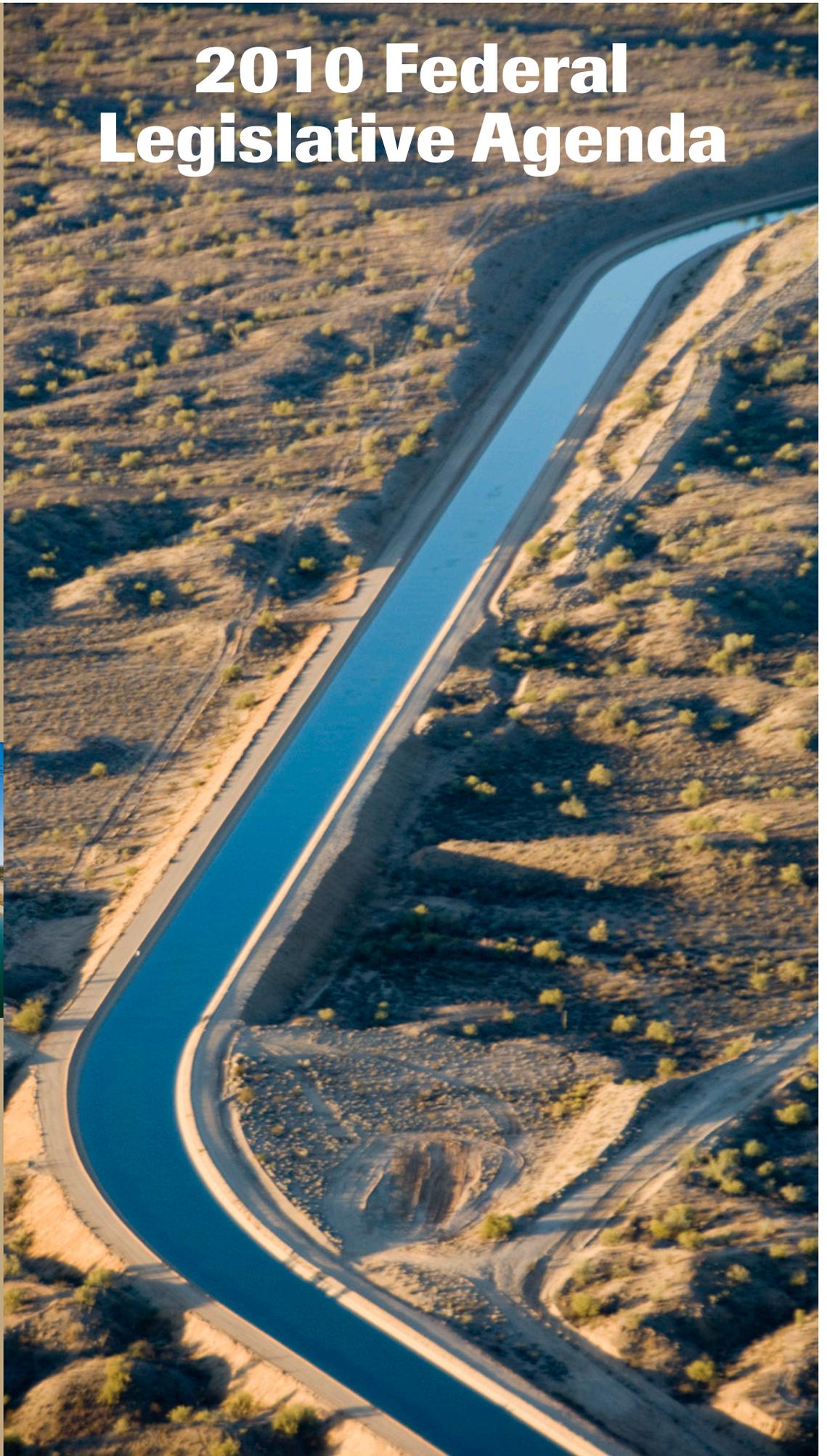


Central Arizona
Project

2010 Federal Legislative Agenda



CAP
CENTRAL ARIZONA PROJECT

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2010 Central Arizona Project Federal Legislative Agenda

This report describes the federal legislative agenda of the Central Arizona Project (CAP) and will guide lobbying activities during the second session of the 111th Congress.

While these issues define the primary legislative agenda of CAP, the Business Planning Team will come before the CAP Board of Directors on a regular basis throughout the year to seek guidance and direction on the various proposed rules, bills and amendments that arise.

PRIORITY ISSUES:

Environmental Protection Agency (EPA) Rulemaking Regarding Navajo Generating Station (NGS) Emissions Control – The EPA's proposed Best Available Retrofit Technology (BART) rulemaking for emissions control at the NGS is the first of several challenges to this coal-fired power plant. How our chief energy source operates, if at all, and its impact on the price of water delivered to our customers under various outcomes are at stake. We will engage elected leaders at the state and federal levels, the media, Native American Tribes, and members of the Arizona water community regarding this issue.

Continue efforts to engage elected officials, stakeholders, and governmental agencies in influencing the EPA to apply due weight to the economic impacts of its BART determination for NGS.

EPA Water Transfer Rule – CAP and other western water interests have been active participants in the cases involving the question of whether Clean Water Act discharge permits (NPDES permits) are required for water transfers. The EPA rule, which is strongly supported by western water interests, exempts water transfers from NPDES requirements. However, the EPA has now indicated that it intends to reconsider this rule, despite the United States Court of Appeals for the Eleventh Circuit having effectively upheld the existing EPA water transfer rule in a case decided in 2009.

Engage in all activities necessary to convince the EPA not to withdraw the existing rule or to modify the rule in a way that negatively impacts CAP.

Climate Change and Energy Legislation – The House-passed climate change bill, the American Clean Energy and Security Act (H.R. 2454), would cap greenhouse gas emissions and establish a trading program to reduce those emissions. Within the cap and trade program, the bill language provides for carbon emissions allowances for most electrical utilities that will reduce or delay the cost impacts. Senate passage of comprehensive climate legislation is uncertain, but several bills are in process.

CAP is in a unique position as the only federal Reclamation project in the U.S. that has a coal-fired power plant as a project component. CAP needs and uses large amounts of energy from NGS to pump water, but CAP is not an electrical utility and, therefore, the carbon emissions allowances as established in H.R. 2454 would not apply to CAP. Unless CAP is granted these same carbon emissions allowances for its use of NGS power, CAP water rates will face large increases and NGS surplus power may become unmarketable.

Continue to oppose this legislation until the bill recognizes the impact of cap and trade on water rates and grants allowances for energy used for CAP pumping and Navajo Surplus on par with other energy providers at NGS.

The Lower Colorado River Protection Act, H.R. 3481 – This bill seeks to protect the quality of the Lower Colorado River basin by formalizing a system for federal, state and regional cooperation on water quality concerns. The legislation establishes a Management Conference to identify the issues and make recommendations for grants to the EPA Administrator and a newly established EPA office on the river. In addition to creating an environmental research program on the river, H.R. 3481 would involve regional stakeholders in creating a plan to protect the Lower Colorado River.

The bill was introduced in the House on July 31, 2009, by Rep. Grijalva (D-AZ). A Senate companion has not been identified.

Work collaboratively with stakeholders and Rep. Grijalva's office to position CAP to support this legislation.

ISSUES THAT REQUIRE CAP INVOLVEMENT WITH OTHER STAKEHOLDERS:

Post 2017 Hoover Power Reallocation - The existing consumers of Hoover power in Arizona, California and Nevada are proposing legislation that would extend Hoover power contracts that are set to expire in 2017. Under the proposed legislation, Congress would distribute Hoover power to the current customers, including CAP through the Arizona Power Authority (APA), for another 50 years. Additionally, the bill would establish a new pool of power for federally recognized Indian Tribes and other eligible entities that do not currently purchase Hoover power by taking a small share from current Hoover contractors. The bill is expected to be introduced sometime this year in both chambers.

Work with the appropriate stakeholders to seek passage of this legislation.

Salinity Control and Augmentation Funding - The Hoover Power Plant Act of 1984 established surcharges on the rates charged for federal hydropower sold from Hoover Dam and, starting in 2005, the Parker-Davis Project. Customers in California and Nevada pay a 2.5 mills per kilowatt-hour surcharge for salinity control, fish and wildlife remediation and augmentation of the Colorado River for use in the Lower Basin. A 4.5 mills surcharge was imposed on Arizona customers to pay the reimbursable costs of the CAP and certain other costs, but there is no Arizona contribution to salinity control and augmentation of the Colorado River. California and Nevada believe that they are currently carrying a disproportionate burden for these costs and want to rectify the situation.

Explore potential legislation to allow 2.5 mills of the current 4.5 mills surcharge on Arizona consumers of Hoover and Parker-Davis power to be redirected to the Lower Basin Development Fund for salinity control, augmentation and the other purposes that are currently funded solely by California and Nevada. The remaining 2 mills would continue to fund repayment of the CAP and other uses as specified under current law.

Clean Water Restoration Act, S. 787 - The Senate Environment and Public Works Committee approved the Clean Water Restoration Act (S. 787) on June 18, 2009. The bill would expand the coverage of the Clean Water Act. References to "navigable waters of the United States" would be replaced with the words "waters of the United States."

The measure is in response to recent Supreme Court rulings that precluded the EPA from using the Clean Water Act to regulate pollution in some wetlands because they were not considered navigable bodies of water. The U.S. Chamber of Commerce, the American Farm Bureau Federation and the National Association of Counties oppose the definition change, saying it will result in permitting delays and greater federal oversight of state and local decisions.

Continue to work with the Western Urban Water Coalition to seek an exclusion in the definition of "waters of the United States" for water conveyance facilities.

White Mountain Apache Water Rights Settlement - On July 21, 2009, the House Natural Resources Committee, Subcommittee on Water and Power, led by Rep. Grace F. Napolitano (D-CA), held a hearing on a number of water bills, including H.R. 1065, the White Mountain Apache Tribe Water Rights Quantification Act of 2009, introduced by Rep. Kirkpatrick (D-AZ). This is the companion bill to S. 313, cosponsored by Sen. Kyl and McCain. The bills are cosponsored by both Senators and the entire AZ House delegation.

Among other provisions, the bill requires the Secretary of the Interior to enter into a specified contract with the Tribe for tribal water rights in Maricopa, Pinal, Pima, and Yavapai counties in Arizona; and plan, construct, maintain, and operate the White Mountain Apache Tribe rural water system.

Continue to support this legislation.

Navajo/Hopi Water Rights Settlement Legislation - We continue to work with other stakeholders to negotiate a comprehensive settlement of the claims of the two tribes to the Lower Colorado River, the Little Colorado River and groundwater in the vicinity of the reservations. If these negotiations are successful, federal legislation will be necessary to authorize and fund the settlement.

Continue to seek a settlement of these water rights claims and support legislation necessary and appropriate to implement a settlement.

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Carbon Sequestration Pilot Projects, S. 1013 – The Department of Energy Carbon Capture and Sequestration Program Amendments Act of 2009 (S. 1013) would make funding available for up to 10 commercial-scale (over 1 million tons of carbon dioxide per year) geologic sequestration projects.

Explore with SRP the possibility of including NGS as a demonstration site.

CAP Transmission Issues – Staff has been working with the Bureau of Reclamation (BOR) and the Western Area Power Administration (WAPA) to clearly identify certain portions of the CAP transmission system that 1) were built with CAP funding and included in CAWCD's repayment obligation, 2) are not a part of the higher voltage interconnected federal transmission system managed by Western, and 3) at this point, exist primarily to serve only CAP loads. CAWCD is working to assure that it retains the right to manage and use those electrical transmission systems in any fashion that will improve system reliability and lower the costs of delivering water to all CAP contractors and subcontractors.

Continue to work with the BOR and WAPA to assure that CAWCD has sufficient rights to transmit/sell power over the CAP transmission system, including necessary portions of the Navajo transmission systems, after CAWCD's contracts with SRP expire in 2011, and explore whether legislation is necessary or advisable.

OTHER BILLS/LEGISLATIVE ISSUES OF INTEREST:

The Chemical and Water Security Act of 2009, H.R. 2868 – This Act would authorize the Department of Homeland Security's (DHS) authority to regulate security at chemical-handling facilities and authorize the Environmental Protection Agency to regulate chemical security at wastewater and drinking water plants.

The bill would require the EPA to establish risk-based performance standards for drinking water and wastewater plants. Of particular concern to those in opposition is the "inherently safer technologies" (IST) requirement that facilities assess methods to reduce the consequences of a terrorist attack, regardless of whether they are cost-feasible and would actually reduce risk. Those facilities that DHS designates as having the highest risk would be required to implement those changes if feasible.

Monitor this legislation for possible impacts to CAP operations.

EPA Rulemaking, Greenhouse Gas Emissions – On December 7, 2009, the EPA issued its "endangerment finding" that greenhouse gases threaten the public health and welfare. The finding was published in the *Federal Register* on December 15, 2009 and became effective on January 14, 2010.

Monitor proposal to regulate greenhouse gas emissions from large facilities under the Clean Air Act.

EPA Final Rule, Reporting of Greenhouse Gases – The EPA has issued the Final Mandatory Reporting of Greenhouse Gases Rule. The rule requires reporting of greenhouse gas (GHG) emissions from large sources and suppliers in the United States and is intended to collect accurate and timely emissions data to inform future policy decisions. The final rule was published in the *Federal Register* on October 30, 2009. The rule became effective December 29, 2009. This action includes final reporting requirements for 31 of the 42 emission sources listed in the proposal.

Monitor implementation of final rule that mandates reporting of greenhouse gases.

EPA Final Rule: Drinking Water Contaminant Candidate List 3 (CCL 3) – CCL 3 is a list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations, that are known or anticipated to occur in public water systems, and which may require regulation under the Safe Drinking Water Act (SDWA). The list includes, among others, pesticides, disinfection byproducts, chemicals used in commerce, waterborne pathogens, pharmaceuticals, and biological toxins. The final CCL 3 includes 104 chemicals or chemical groups and 12 microbiological contaminants.

Monitor the implementation of the final rule on the Drinking Water Contaminant Candidate List 3.

National Ambient Air Quality Standards for Ozone – On January 19, 2010, the EPA proposed new National Ambient Air Quality Standards (NAAQS) for ozone. The current primary standard, which is 0.075 parts per million (ppm), is proposed to be reduced to a level within the range of 0.060 and 0.070 ppm. The EPA notes that the power industry is one of the largest emitters of nitrogen oxides (NOx) and volatile organic compounds, the principal sources of ozone. It has been reported that Navajo County, in which NGS is located, would not meet the new primary standard for ozone. EPA anticipates promulgating new NAAQS for ozone in 2010, after which states must adopt new restrictions to meet the new standards. The timing of the adoption of new restrictions on existing sources is not yet known.

Monitor EPA's promulgation of new NAAQS for ozone.



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