

# Profile of the Salt River Project

compiled by George Draffan, Public Information Network, [www.endgame.org](http://www.endgame.org)

for the Center for Biological Diversity, [www.biologicaldiversity.org](http://www.biologicaldiversity.org)

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## History

### Basic data

SRP's Agricultural Improvement and Power District (a political subdivision of the State of Arizona)  
 ?? generates more than 5,800-MW capacity  
 ?? distributes power to more than 700,000 customers  
 ?? is preparing for competition by establishing marketing subsidiary New West Energy. <sup>1</sup>

SRP's Salt River Valley Water Users Association  
 ?? is a private firm that delivers about 1 million acre-feet of water to residents and agricultural irrigators  
 ?? operates canals, reservoirs, and wells in its service area. <sup>2</sup>

Employees: 4,050

SRP's top competitors: <sup>3</sup>

American States Water (San Dimas CA) <http://www.aswater.com>

Pinnacle West (Phoenix AZ) <http://www.pinnaclewest.com>

UniSource Energy (Tucson AZ) <http://www.unisourceenergy.com>

<b>Salt River Project Headquarters</b> 1521 N. Project Dr Tempe AZ 85281 PO Box 52025 Phoenix AZ 85072-2025 Phone: 602-236-5900 Fax: 602-236-2170 <a href="http://www.srpnet.com">http://www.srpnet.com</a>	<b>Washington DC office</b> 214 Massachusetts Ave NE # 310 Washington DC 20002-4958 (202) 546-8940
7050 E University Dr Mesa AZ 85207-6406 (602) 236-8888	<b>New West Energy Corp</b> 1521 N Project Dr Tempe AZ 85281-1206 (602) 236-2208
6000 Highway 98 Page AZ 86040-0000 (928) 645-8811	<b>New West Energy Corp</b> 9 Terners Dr # 2 Sausalito CA 94965-3000 (415) 289-0864
26 E Baseline Rd # 16 Phoenix AZ 85042-6541 (602) 236-4444	<b>Papago Park Center Inc</b> 1521 N Project DR Tempe AZ 85281-1206 (602) 236-2208
32032 US Highway 666 St Johns AZ 85936-0000 (928) 337-4131	<b>Environmental Services Laboratory</b> Tempe Conducts soil, water and air sampling on canals and wells in the Phoenix area and Salt and Verde River watersheds.
221 N 79th Ave Tolleson AZ 85353-3127 (602) 236-8888	

## **The SRP Legacy**

from the SRP website<sup>4</sup>:

“SRP, based in Phoenix, was established in 1903 as the nation’s first multipurpose reclamation project authorized under the National Reclamation Act. Today, SRP is the nation’s third-largest public power utility and one of Arizona’s largest water suppliers, providing power to customers throughout a 2,900-square-mile service territory in central Arizona. SRP also operates a system of dams and canals that deliver water to the area.

A need for water

“A century ago, Arizona settlers were challenged by the harsh desert environment. Water was scarce and the supply unreliable. In 1903, the settlers formed the Salt River Valley Water Users’ Association, still a part of today’s SRP, and pledged more than 200,000 acres of their land as collateral for a government loan to build a massive water storage and delivery system.

“That loan was made possible by the National Reclamation Act of 1902, which provided funding for the construction of water storage dams and canals, bringing new hope to those who had struggled to develop the area.

“With the government loan, the dam was built and named it after the President Theodore Roosevelt, whose foresight and commitment brought the project to life.

“In 1996, a \$430 million modification project was completed that raised the height of Roosevelt Dam to 357 feet and expanded the lake’s storage capacity by 20 percent. Roosevelt Dam was, and still is, the cornerstone of the Salt River Valley’s water storage and delivery system.

More dams, canals built

“As the area grew, the Association added three more dams on the Salt River and two dams on the Verde River. A 1,300-mile system of canals and laterals was built to complete the water delivery system.

“The water storage and delivery system brought new life to the land. More than any other single factor, this system influenced the region’s development.

“As the state grew, SRP realized that its storage system and groundwater supplies would not be adequate to support the future growth of Arizona’s cities, agriculture, business and industry. So we helped bring the Central Arizona Project (CAP) to life. The CAP’s canal system transports water from the Colorado River across the desert and into the state’s central valley, augmenting the region’s supply.

“Today, SRP’s water storage and delivery system delivers more than 1 million acre-feet annually to the Salt River Valley.

“The hydrogeneration created by the Association was successful, and confirmed that electricity could generate revenue support for the Association.

## Growth required power

“In 1937, the Association created the Salt River Project Agricultural Improvement and Power District, a political subdivision of the state of Arizona, which to operate the power generation and distribution system. The Association and District later became known as Salt River Project.

“SRP’s electricity was first created through hydrogeneration., This electricity initially supported the growing agriculture and mining businesses. Our residential customer base rapidly increased each year - sometimes by as much as 30 percent and demand exceeded supply.

“SRP diversified to also produce electricity from steam and diesel oil. In the late 1940s, SRP committed to system expansion, purchasing new equipment, using new technology and building new substations - essentially creating a new power system.

## A modern system

“As demand increased in the 1960s and 1970s, SRP again committed to keep its power system progressive, building Navajo and Coronado generating stations.

“Today, SRP and its partners generate power from plants in Arizona, Colorado, Nevada and New Mexico, with a diverse fuel mix of coal, nuclear, hydro, natural gas and oil. This allows SRP to take advantage of favorable markets and provide power to customers at the lowest possible cost.

“SRP’s response to growth, commitment to progress and the environment has helped shape the West for nearly 100 years and made it possible for millions to live in the desert and enjoy and a bustling economy in metropolitan Phoenix.

## Recognition

“In May 1999, SRP was recognized by the Library of Congress as one of Arizona’s “Local Legacies” during ceremonies in Washington, D.C. SRP is the only electric or water utility to be so honored.

“Two U.S. Congressmen from Arizona nominated SRP for the prestigious honor, noting that SRP is the oldest multipurpose federal reclamation project in the nation, older even than the state of Arizona.

“The Local Legacies project, part of the Library of Congress Bicentennial celebration, documents America’s grassroots heritage, providing a snapshot of the nation’s unique traditions that define various communities and community events.”<sup>5</sup>

## **Corporate Structure**

“The Salt River Project Agricultural Improvement and Power District (the District) is an agricultural improvement district organized in 1937 under the laws of the State of Arizona. It operates the Salt River Project (the Project), a federal reclamation project, under contracts with the Salt River Valley Water Users’ Association (the Association) by which it has assumed the obligations of the Association to the United States of America for the care, operation and maintenance of the Project. The District owns and

operates an electric system that generates, purchases and distributes electric power and energy. The Association operates an irrigation system as the District's agent. "<sup>6</sup>

"On May 1, 1997, the District established a wholly-owned, taxable subsidiary, New West Energy Corporation (New West Energy), to market, at retail, energy produced by the District that may be rendered surplus by retail competition in Arizona in the supply of generation."<sup>7</sup>

#### Possession and Use of Utility Plant

"The United States of America retains a paramount right or claim in the Project that arises from the original construction and operation of certain facilities as a federal reclamation project. Rights to the possession and use of, and to all revenues produced by these facilities, are evidenced by contractual arrangements with the United States."<sup>8</sup>

#### Principles of Combination

"[SRP's] financial statements reflect the combined accounts of the Association and the District (together referred to as SRP). The District's financial statements are consolidated with its two wholly-owned taxable subsidiaries, New West Energy and Papago Park Center, Inc. (PPC). PPC is a real estate management company. All material intercompany transactions have been eliminated."<sup>9</sup>

#### Regulation and Pricing Policies

"Under Arizona law, the District's publicly elected Board of Directors (the Board) serves as its regulatory body and has the exclusive authority to establish electric prices. The District is required to follow certain procedures, including public notice requirements and special Board meetings, before implementing changes in standard electric price schedules. Market fluctuations can influence prices for generation related products."<sup>10</sup>

## **Governing Structure**

### **Corporate Officers and Management<sup>11</sup>**

**William P. Schrader, SRP President.** Member of the SRP Board 1964-1990, Vice President of SRP 1990-1994, President of SRP 1994-present. President of family farm (Schrader Farms) raising corn, cotton, alfalfa, grain crops. Board Member of the Greater Phoenix Economic Council, and Maricopa Community Colleges Foundation. Past Mayor of Scottsdale (1962-1964), Past Member of Scottsdale City Council (1958-1964). Member of Agribusiness Council of Arizona, American Management Association, American Public Power Association, Colorado River Water Users Association, East Valley Partnership, National Water Resources Association, Scottsdale Charros, Scottsdale Junior Chamber of Commerce, Scottsdale Chamber of Commerce, Scottsdale Municipal Properties Corporation, Scottsdale Methodist Church, Arizona Club, Mesa Country Club, University Club, White Mountain Country Club

John M. Williams Jr., SRP Vice President.

Terrill A. Lonon, SRP Corporate Secretary.

C. Joy Baker, SRP Treasurer.

Richard H. Silverman, General Manager.

Water Group: John F. Sullivan, Associate General Manager

Power, Construction & Engineering Services: David G. Areghini, Associate General Manager

Public & Communications Services: D. Michael Rappoport, Associate General Manager

Operations, Information & Human Resources Services: L. J. "Chip" U'Ren, Associate General Manager

Commercial & Customer Service: Mark B. Bonsall, Associate General Manager

Corporate Counsel: Jane D. Alfano

Foothills Training Facility: Movita Hudson

## **Governance<sup>12</sup>**

SRP is two companies: the Salt River Project Agricultural Improvement and Power District, a political subdivision of the state of Arizona; and the Salt River Valley Water Users' Association, a private corporation.

The District provides electricity to retail customers in the Phoenix area. It operates or participates in seven major power plants and numerous other generating stations, including thermal, nuclear and hydroelectric sources.

The Association delivers nearly 1 million acre-feet of water to a service area in central Arizona. An extensive water delivery system is maintained and operated by the Association, including reservoirs, wells, canals and irrigation laterals. As a matter of tradition, most candidates seek identical positions in the District and Association. However, sometimes through the election process Board and Council seats may be "split," resulting in additional members.

The president is the chief executive officer and chairman of the Board of each organization. The vice president fulfills the duties and responsibilities of the president during the president's absence. Together, they serve as the day-to-day representatives of the Boards in the management of SRP.

## **The Association<sup>13</sup>**

In the Association, landowners elect a president, a vice president, 10 Board members and 30 Council members. Each district elects one Board member and three Council members. The president and vice president are elected at-large, meaning they are elected by the sum of the votes from all voting districts.

The Association is the older of SRP's two organizations. It began when a group of early Valley residents searched for an effective means to bring water to their families, farms and communities.

These pioneers tried to irrigate crops with a simple canal system fed by the Salt River. Canal operations were unpredictable. Sometimes the river shrank to a trickle, while other times, the river swelled beyond its banks and washed away a season of hard work.

In 1902, President Theodore Roosevelt signed the National Reclamation Act. The law provided federal loans for construction of reclamation projects in the West. Valley settlers formed the Association in 1903

and pledged their land as collateral for federal government loan to build a massive water storage and delivery system.

The cornerstone of the system, Theodore Roosevelt Dam, was dedicated in 1911, six years after construction began. The dam was rededicated in 1996 following Safety of Dam modifications that added 77 feet of height to the dam and needed conservation and flood control capacity.

As part of its operations, the Association cooperatively manages a 13,000-square-mile “watershed” or natural drainage area in the mountains north and east of metropolitan Phoenix. This watershed feeds the Salt and Verde rivers that flow into the SRP reservoir system. From 1923 to 1946, five more water-storage dams were built along the Salt and Verde rivers to help satisfy the Valley’s need for a reliable supply of water.

The duties of the Association increased as more people moved to metropolitan Phoenix. Water-quality monitoring and water conservation became priorities as agricultural needs decreased and urban uses increased.

Today, the Association delivers nearly 1 million acre-feet of water to a 240,000-acre service area in metropolitan Phoenix. The reservoir system feeds an extensive water delivery network comprising 1,265 miles of canals, laterals and smaller channels. This delivery network carries water to municipalities as well as agricultural and urban irrigators.

## **The District<sup>14</sup>**

In the District, landowners elect a president, a vice president, 14 Board members and 30 Council members. Each of the 10 voting divisions elects one Board member and three Council members. The president, vice president and four remaining Board members are elected at-large from all of the voting divisions.

During the Great Depression, Valley farmers were hard-pressed to make payments on the federal loans for Theodore Roosevelt Dam and other dams on the Salt River. To help reduce payments on the outstanding loans, the Arizona Legislature enacted a law that allowed the formation of the Salt River Project Agricultural Improvement and Power District in 1937.

As a political subdivision of the state, the District can issue tax-free municipal bonds, thereby reducing interest costs and saving SRP electric and water users millions of dollars.

As the Valley’s population has grown, the District has tapped many power sources to provide electricity to more than 700,000 customers. Besides the time-honored hydroelectric generating units at the dams on the Salt River, the District owns or participates in 10 generating stations in the Southwest. Customers also are served by power drawn from various other generating facilities in the Valley and state, as well as from contractual power purchases.

## **Boards and Councils<sup>15</sup>**

The Boards set specific policy and, through management, operate SRP in accordance with the provisions of the Articles of Incorporation, District and Association bylaws, and Arizona statutes. For example, the Boards approve major fuel contracts, authorize the purchase of major equipment, and set water and power rates.

The two Councils of Salt River Project enact and amend bylaws relating to business affairs of SRP and also serve as liaisons to District electors and Association shareholders.

Continuity in leadership and experience is provided through a system of various standing committees on the Boards.

Board and Council members are elected to four-year terms, with one-half of the seats eligible for election every two years.

The two Boards of Salt River Project work with management to establish policies to further the business affairs of SRP. The 10 members of the Salt River Valley Water Users' Association Board of Governors serve staggered four-year terms and are elected from voting districts by the landowners within the water service territory. The Association is SRP's private water corporation, which administers the water rights of SRP's 240,000-acre area and operates and maintains the irrigation and drainage system.<sup>16</sup>

The 14 members of the Salt River Project Agricultural Improvement and Power District Board of Directors serve staggered four-year terms. Ten District Board members are elected from voting divisions and four are elected at-large, by landowners within the District's boundaries. The District is SRP's public power utility and a political subdivision of Arizona. Most often, candidates seek election to both Boards.<sup>17</sup>

As with the SRP Boards, there is one Council for the District and one for the Association. The 30 District Council members are elected to staggered four-year terms from 10 voting areas. Most often, candidates seek election to both Councils.

### District Board members

Division 1: Larry D. Rovey

Division 2: Clarence C. Pendergast Jr.

Division 3: Elvin E. "Gene" Fleming

Division 4: Gilbert R. Rogers

Division 5: Carl E. Weiler

Division 6: James L. Diller

Division 7: Ann M. Burton

Division 8: Robert G. Kempton

Division 9: Dale C. Riggins Jr.

Division 10: Dwayne E. Dobson

Directors-At-Large: Eldon Rudd, William W. Arnett, Fred J. Ash, James R. Marshall

### Association Board members

District 1: Larry D. Rovey

District 2: Clarence C. Pendergast Jr.  
District 3: Elvin E. “Gene” Fleming  
District 4: Gilbert R. Rogers  
District 5: Carl E. Weiler  
District 6: James L. Diller  
District 7: Keith B. Woods  
District 8: Robert G. Kempton  
District 9: Dale C. Riggins Jr.  
District 10: Dwayne E. Dobson

#### District Council members

Division 1: Robert L. Cook, Kevin J. Johnson, John R. Starr  
Division 2: Wayne A. Hart, John A. Vanderwey, Paul E. Rovey  
Division 3: John E. Anderson, Mario J. Herrera, Robert L. Van Hofwegen  
Division 4: Lloyd E. “Lee” Banning, Charles D. Coppinger, Leslie C. Williams  
Division 5: Roy W. Cheatham, Steve Williams, Wayne A. Weiler  
Division 6: Ben A. Butler, Clarence J. Duncan, David Rousseau  
Division 7: Mark A. Lewis, Harmen Tjaarda, Jr., Keith B. Woods  
Division 8: John R. Hoopes, Deborah S. Hendrickson, Mark V. Pace  
Division 9: W. Curtis Dana, Arthur L. Freeman, Edward E. Johnson  
Division 10: Orland R. Hatch, Lawrence P. Schrader, C. Dale Willis

#### Association Council members

District 1: Robert L. Cook, Kevin J. Johnson, John R. Starr  
District 2: Wayne A. Hart, John A. Vanderwey, Paul E. Rovey  
District 3: John E. Anderson, Mario J. Herrera, Robert L. Van Hofwegen  
District 4: Lloyd E. “Lee” Banning, Charles D. Coppinger, Leslie C. Williams  
District 5: Roy W. Cheatham, Steve Williams, Wayne A. Weiler  
District 6: David Rousseau, Clarence J. Duncan, Robert W. Warren  
District 7: Mark A. Lewis, Harmen Tjaarda, Jr., Ann M. Burton  
District 8: John R. Hoopes, Deborah S. Hendrickson, Mark V. Pace  
District 9: W. Curtis Dana, Arthur L. Freeman, Edward E. Johnson  
District 10: Orland R. Hatch, Lawrence P. Schrader, C. Dale Willis

## **Election Process<sup>18</sup>**

With the exception of the District’s at-large Board members, SRP’s president, vice president, Boards and Councils are elected by a “debt-proportionate” system based on land ownership. The debt-proportionate concept stems from the original financial commitment of landowners who pledged their acreage as collateral for a federal loan to build Theodore Roosevelt Dam in the early 1900s.

Under this system, a landowner with five acres casts five votes in an SRP election, while an owner with one-half acre is entitled to half (0.5) of a vote. Land held in trust or partnership, or owned by corporations or municipalities, cannot be voted.

The four at-large Board members are elected on a one-landowner, one-vote basis.

The constitutionality of SRP's acreage-based voting system has been upheld by the U.S. Supreme Court in 1981 and, more recently, by the U.S. Court of Appeals.

SRP is divided into 10 voting districts (Association) and divisions (District). The map of the Salt River Reservoir District shows how the voting boundaries are located geographically.<sup>19</sup>

## **Regulation of SRP**

### **Deregulation of Energy in Arizona**

#### **Fundamental Changes in the Electric Utility Industry (SRP website)<sup>20</sup>**

From the SRP website:

“The electric utility industry is undergoing fundamental changes leading to a more competitive environment. The District traditionally operated in a highly regulated environment in which it had an obligation to deliver electric service to customers within its service area. In May 1998, the Arizona Electric Power Competition Act (the Act) authorized competition in the retail sale of electric generation, recovery of stranded costs, and competition in billing, metering and meter reading.

“The Act allows for a temporary surcharge on electric distribution service prices to pay for all or a portion of unmitigated stranded costs of electric generation service that were incurred as a direct result of the onset of competition. Such costs must have been incurred to serve customers in Arizona before December 26, 1996. This surcharge may not continue past December 31, 2004, and must not cause rates to exceed the rates that were in effect on December 30, 1998.

“Since 1999, the Arizona Corporation Commission (the Commission), which regulates public service corporations, has been entering into settlement agreements with each of its regulated utilities, establishing terms and conditions precedent to a framework for stranded cost recovery and unbundled tariffs. The Commission's competition rules require each utility to make available at least 20% of its 1995 system retail peak demand for competitive generation supply once the Commission makes a final decision on its stranded cost recovery and unbundled rates. Beginning January 1, 2001, all customers may select an alternative generation provider. Additionally, the rules provide that, prior to January 1, 2001, each utility governed by the Commission must transfer all competitive generation assets and services either to an unaffiliated party or to a separate corporate affiliate. However, waivers have been obtained by certain utilities to defer this date until January 1, 2003. Various lawsuits remain outstanding regarding stranded cost recovery and the amendment of the rules on competition. Nevertheless, the territories of some regulated utilities are open to competition while the litigation continues.

“The Federal Energy Regulatory Commission (FERC) regulates the electric utility industry under the authority of various statutes. FERC issued rules in 1996 mandating, among other things, open nondiscriminatory access to transmission lines. The rules require comparable transmission service in order to use the transmission systems of public utilities. The District has filed a comparable open access transmission tariff to ensure reciprocal access, pursuant to rules FERC developed for nonjurisdictional

entities like the District. In addition, FERC issued its order No. 2000 in December 1999, requiring all jurisdictional public utilities that own, operate or control interstate transmission to file by October 15, 2000, a proposal for a regional transmission organization (RTO) or, alternatively, a description of any efforts made by the utility to participate in an RTO. SRP is actively participating in the development of an RTO for the Southwest.

#### “SRP’s Response to the Changing Regulatory Environment

“The Board passed resolutions in August 1998 and December 1998 to open 20% of the District’s 1995 retail load to competition for the retail sale of electric generation on December 31, 1998. During the first two years of competition, customers who elect competitive electric services may also choose billing, collection and meter reading services on a competitive basis if their demand exceeds one megawatt. On April 10, 2000, the Board passed a resolution opening the District’s entire service area to generation competition to electricity suppliers approved by the Commission. The service area will be open beginning June 1, 2000, thereby accelerating the original terms outlined in the Act which required opening the entire service area no later than December 31, 2000. The entire service area will be open to competition in billing, metering and meter reading no later than December 31, 2000. The District’s electric distribution area will remain regulated and the District will not provide distribution services in the distribution areas of other utilities.

“On December 7, 1998, the District approved unbundled pricing plans effective December 31, 1998. For retail customers who are unable to choose competitive electric generation, prices reflect a decrease of at least 10% over a 10-year period, apportioned among customer classes. On April 10, 2000, the District approved a price plan redesign that resulted in an overall average 1.0% further price reduction. The new price plans more closely align the components of the unbundled price plans to costs. In almost all cases the energy price (shopping credit) increased, further promoting competition. The new price plans were effective May 15, 2000. The District prices its electric generation based upon market and cost induced factors. The new price plans do not affect the level of competitive transition charge (CTC) to be collected.

“Under the August 1998 and December 1998 resolutions, the Board has authorized the District to recover a non-bypassable CTC of \$795.5 million. In addition, through a surcharge to the District’s transmission and distribution customers, the Board also allowed for recovery of the cost of programs that benefit the general public, such as discounted rates for the elderly or impoverished, efficiency programs, demand-side management measures, renewable energy programs, economic development, research and development and nuclear decommissioning, including the cost of spent fuel storage. These surcharges have been separately identified and included in the District’s price plans of the regulated portion of operations.

“The Board has provided mechanisms for evaluation of the CTC during the transition period, with respect to actual market price variances from the 2.6 cent market price per kWh used to determine the CTC, and with respect to activities to mitigate operation and maintenance costs. If the CTC is fully recovered before the planned six-year period, the District will cease collection of the CTC. Additionally, if cost mitigation exceeds certain targets, some of the savings from mitigation will be used to reduce the CTC charge.”<sup>21</sup>

### **Arizona Deregulation Issues**

Max Jarman, Out-of-State Firms Like Arizona for Power Plants, *Arizona Republic*, May 22, 2001 at <http://www.arizonarepublic.com/special08/articles/0522outofstate22.html>

Max Jarman, Deregulation's dark side: Arizonans rethinking electricity rule changes, Arizona Republic, July 6, 2001, <http://www.arizonarepublic.com/special08/articles/0706deregulate06.html>

*Arizona Republic* series on energy issues at <http://www.arizonarepublic.com/power/>

## **Profits Cool Off at Arizona Power Companies**

*Mesa Arizona Tribune*, August 22, 2001

“With the wholesale price of electricity soaring, Arizona utilities reaped a financial bonanza last summer. This year, with electricity prices and demand sagging, local utilities are feeling the heat, at least relatively speaking.

“Salt River Project is doing well financially this year, but that may not continue.

“Pinnacle West Capital Corp., the parent company of Arizona Public Service, reported a 26 percent drop in earnings in its fiscal second quarter.

“And the city of Mesa Electric Department, which supplies electricity to a small service area within the city, expects to generate less than half the net revenue this year that it did last year.

“Up to June, Arizona utilities benefited from soaring wholesale prices in California and elsewhere in the West, which allowed them to sell their surplus power at sky-high prices. In the past two months they haven't been able to sell their surpluses for nearly as much.

“As a result of formerly high prices, the 2001 fiscal year was a record for SRP with net revenue of \$273 million. Despite the recent slide in the wholesale market, SRP's revenue continued to grow in its fiscal first quarter of 2002, which ended July 30. Total operating revenue was up 2 percent over the same period a year ago, and net revenue, the difference between income and expenses, was up 20 percent.

“Salt River Project officials said they were able to keep revenue growing because of growth in the number of customers. But Chief Financial Officer Mark Bonsall said SRP's financial results for the entire 2002 fiscal year won't be as strong as last year as lower wholesale prices are felt more fully in future quarters.

“APS was beset by a variety of problems that caused Pinnacle West's earnings drop in the quarter ended June 30. But that was only a relative decline because the same quarter a year ago was the best in the company's history, said spokeswoman Peggy Mulloy.

“Among the factors that hurt APS were high fuel and purchased power costs, a outage at the Palo Verde Nuclear Generating Station to replace fuel control assemblies, costly generation reliability measures, a new accounting standard and continuing decreases in the retail price of electricity.

“Since 1994 the utility has reduced retail prices more than \$605 million in a bid to be more competitive. Under agreements with the Arizona Corporation Commission, the state's utility regulator, APS will reduce rates a total of 16 percent between 1994 to 2004. Mulloy declined to predict what impact lower wholesale prices will have on APS in the coming months.

“The city of Mesa electric department is expecting to produce net income of about \$6 million this year, down from \$15 million last year. Because the city's retail prices are stable, the drop will not affect customers, but it will mean the department will have less money to contribute to the city's general fund, said Utilities Manager Dave Plumb.

“Among the factors that Plumb said are cooling off the electric market this summer are lower than expected temperatures, which have reduced power demand in California; price caps imposed by the Federal Energy Regulatory Commission; and long-term power contracts signed by the state of California.”<sup>22</sup>

## **Financial**

### **Revenues, Income, Assets, Taxes**

For year 2000<sup>23</sup>

Operating revenues up 5 percent at \$1.8 billion.

Water delivery revenues were \$13.2 million.

Total assets \$5,975,624,000

Electric plant assets \$5,765,976,000

Irrigation facility assets \$227,423,000

Common utility assets \$396,627,000

Long-Term Debt \$3,164,866,000

Net revenues were nearly \$118,700,000

Customer numbers grew by 3.7 percent, topping the 727,000 mark.

launched a \$29 million program to fund renewable energy resources.

Operating revenues FY 2000 (ending April 2000) \$1,019,144,000

Operating expenses \$899,072,000

Net operating revenues from non-regulated operations \$120,072,000

Income Taxes<sup>24</sup>

The District is exempt from federal and Arizona state income taxes. Accordingly, no provision for income taxes has been recorded for the District in the accompanying combined financial statements.

New West Energy recognizes deferred tax liabilities and assets for the expected future tax consequences of events that have been recognized in its financial statements or tax returns. Deferred tax liabilities and assets are determined based on differences between the financial statement carrying amounts and tax bases of assets and liabilities using enacted tax rates in effect in the years in which the differences are expected to reverse. Since its inception in May 1997, the tax effect of New West Energy's results of operations has been immaterial.

## Debt<sup>25</sup>

### Revenue Bonds

Revenue bonds are secured by a pledge of, and a lien on, the revenues of the electric system, after deducting operating expenses, as defined in the bond resolution. Under the terms of the bond resolution, the District is required to maintain a debt service fund for the payment of future principal and interest. Included in segregated funds in the accompanying Combined Balance Sheets is \$346.9 million and \$346.0 million of debt service related funds as of April 30, 2000 and 1999, respectively. These amounts include \$192.3 million and \$191.1 million at April 30, 2000 and 1999, respectively, that were authorized by the Board in fiscal year 1999 for repayment of bonds. Subsequent to the balance sheet date, the Board authorized the transfer of \$192.3 million from the segregated funds back to the general fund.

The District has \$81.2 million of mini-revenue bonds outstanding which can be redeemed at the option of the bondholder under certain circumstances. The District has a \$25.0 million revolving line-of-credit agreement available to refinance these bonds if significant redemption requests occur. Based on historical redemptions made on these bonds, management believes that these credit agreements are more than sufficient.

The debt service coverage ratio, as defined in the bond resolution, is used by bond rating agencies to help evaluate the financial viability of the District. For the years ended April 30, 2000 and 1999, the debt service coverage ratio was 3.35 and 3.20, respectively.

Interest and the amortization of the bond discount and issue expense on the various issues results in an effective rate of 5.86% over the remaining term of the bonds.

The District has authorization to issue additional Electric System Revenue Bonds totaling \$72.7 million principal amount and Electric System Refunding Revenue Bonds totaling \$2.9 billion principal amount.

### Commercial Paper

The District has issued \$525.0 million of tax-exempt commercial paper consisting of \$375.0 million Series B Issue and \$150.0 million Series A Issue, initiated in fiscal year 1998. The issues have an average weighted interest rate to the District of 3.9%. The commercial paper matures not more than 270 days from the date of issuance and is an unsecured obligation of the District. The commercial paper has been classified as long-term debt in the accompanying Combined Balance Sheets in connection with refinancing terms under two revolving line-of-credit agreements that support the commercial paper. Under the terms of these agreements, the District may borrow up to \$525.0 million through February 5, 2001.

While the revolving credit agreements contain covenants that could prohibit borrowing under certain conditions, management believes that financing would be available. The District has never borrowed under the two agreements and management does not expect to do so in the future. Alternative sources of funds to support the commercial paper program include existing funds on hand or the issuance of alternative debt, such as revenue bonds.

### General Obligation Bonds

In 1984, the District refunded its then-outstanding general obligation bonds. Although the refunding constituted an in-substance defeasance of the prior lien on revenues which secured the bonds, the general

obligation bonds continue to be general obligations of the District, secured by a lien upon the real property of the District, the authority of the District to assess taxes, and a guarantee by the Association. As of April 30, 2000, the amount of defeased general obligation bonds outstanding was \$8.0 million.

#### Line-of-Credit Arrangements

In addition to the \$525.0 million in revolving line-of-credit agreements that support the commercial paper, the District has a \$25.0 million revolving line-of-credit agreement available for general corporate purposes.

Among other restrictions, covenants within the line-of- credit agreements require the District to maintain minimum accumulated net revenues of \$1.1 billion plus 50% of accumulated net revenues earned subsequent to April 30, 1995 (not reduced by any net losses), or \$1.4 billion at April 30, 2000. Additionally, the agreements require the District to maintain a minimum debt service coverage ratio of 1.35.

## Service Territory

SRP also provides power to more than 700,000 customers in a 2,900-square-mile (7,511 sq. km.) service area in central Arizona.<sup>26</sup>

#### Communities served by SRP

SRP's electric service territory is in Central Arizona. These cities and towns are served all or in part by SRP electric power:

Phoenix  
Mesa  
Tempe  
Paradise Valley  
Fountain Hills  
Scottsdale  
Apache Junction  
Peoria  
Queen Creek  
Avondale  
Chandler  
Town of Gilbert  
Glendale  
Guadalupe  
Tolleson

You can access a printable map of SRP's electric service territory in PDF format. <http://www.srpnet.com/about/graphics/areamap.pdf> To view and print the map, you'll need to download Adobe Acrobat Reader <http://www.adobe.com/prodindex/acrobat/readstep.html> if you don't already have it.

## Facilities

### SRP Interest In Jointly Owned Electric Utility Plants

*For specific ownership interests in various facilities, see Profiles Of Generating Stations below.*

The District has entered into various agreements with other electric utilities for the joint ownership of electric generating and transmission facilities. Each participating owner in these facilities must provide for the cost of its ownership share. The District's share of expenses of the jointly owned plants is included in operating expenses in the accompanying combined statements of net revenues.<sup>27</sup>

The following table reflects the District's ownership interest in jointly owned electric utility plants as of April 30, 2000 (in thousands):<sup>28</sup>

Generating station	Ownership Share	Plant in Service	Accumulated Depreciation	Construction Work in Progress
Four Corners (NM) (Units 4 & 5)	10.00%	\$ 102,526	\$ (68,372)	\$ 746
Mohave (NV) (Units 1 & 2)	10.00%	63,037	(39,710)	2,741
Navajo (AZ) (Units 1, 2 & 3)	21.70%	342,600	(169,330)	2,545
Hayden (CO) (Unit 2)	50.00%	109,080	(49,948)	2,535
Craig (CO) (Units 1 & 2)	29.00%	238,057	(133,435)	3,736
PVNGS (AZ) (Units 1, 2 & 3)	17.49%	1,105,126	(744,354)	14,864
		\$1,960,426	\$(1,205,149)	\$27,167

The District acts as the operating agent for the participants in the Navajo Generating Station (NGS).

### Profiles of Generating Stations

#### Agua Fria (Peoria AZ)

Operating data from SRP website<sup>29</sup>

Owner/operator: Wholly owned by SRP.

Location: Peoria, Ariz., on Northern Avenue east of 75th Avenue.

Description: Three steam generation units and three combustion turbine generators.

Capacity: 600 megawatts, from six units, plus 200 kilowatts from one solar generating unit.

Fuel source: The station can burn either natural gas or oil, depending upon availability and cost. The station is also capable of solar generation.

Fuel consumption: When burning oil, the units use 653,000 gallons a day at full load. When using natural gas, Units 1, 2 & 3 burn 97,600,000 cubic feet a day at full load.

Plant construction: Construction began in the late 1950s. Unit 2 was completed in April 1957, Unit 1 in January 1958 and Unit 3 in April 1961. Units 5 & 6 were completed in July 1974 and Unit 4 in May 1975. The solar generating unit was completed in March 2001.

Construction cost: Units 1 & 2 cost \$24 million total, Unit 3 cost \$20 million, and Units 4, 5 & 6 cost \$22.3 million total.

Plant operations:

Agua Fria units are used to supplement base-load plants and add power during peak demands. Agua Fria is a quick source of electricity, capable of producing power within 22 minutes. Agua Fria is the largest capacity generating station in the Valley.

## **Coronado (St. Johns AZ)**

Operating data from SRP website<sup>30</sup>

Owner/Operator: Owned and operated by SRP.

Location: Near St. Johns, in eastern Arizona.

Plant construction: Construction began 1975. Unit 1 completed Dec. 31, 1979. Unit 2 completed Oct. 1, 1980.

Description: Coal-fired, steam electric generating station.

Capacity: 760 megawatts, from one 365 MW unit and one 395 MW unit.

Fuel source: The McKinley Mine, located east of Window Rock near the New Mexico-Arizona border. Sulfur content of coal is 0.5 percent.

Note: The Coronado facility gets coal from the McKinley Mine north of Gallup, which is projected to play out in five to seven years; SRP plans to get coal from the proposed Fence Lake Mine in New Mexico.<sup>31</sup>

Coal consumption: A maximum of 9,135 tons per day if both units are running at full load.

Construction costs: \$700 million, including \$220 million in environmental control equipment.

Environmental control equipment:<sup>32</sup>

Electrostatic precipitators to control fly ash.  
Scrubbers to remove sulfur dioxide (SO<sub>2</sub>).  
Water reservoir is lined to help recover and contain process waste.

Approximate air emission from the plant:

SO<sub>2</sub>

Unit 1 -- 0.7 pounds per million British Thermal Units (MMBTU) of heat input.

Unit 2 -- 0.72 pounds/MMBTU

Nitrogen Oxides (NO<sub>x</sub>):

Unit 1 -- 0.42 pounds/MMBTU

Unit 2 -- 0.42 pounds/MMBTU

Particulates:

0.01 pounds per MMBTU

### **Craig (Craig CO)**

Over 75% of SRP's Craig Station coal requirements are supplied by under two long-term agreements with Kennecott Energy's Colowyo Coal Company (79,429 tons of coal per year) and the nearby Trapper Mining, Inc. mine (189,108 tons of coal per year).<sup>33</sup>

Operating data from SRP website<sup>34</sup>

Operator: Tri-State Generation & Transmission Association, Inc.

Owners: Units 1 & 2--Yampa Project

SRP 29.0%

Tri-State G&T 24.0%

Pacificorp 19.3%

Platte River Power Authority 18.0%

Public Service Co. of Colorado 9.7%

Owners: Unit 3

Leased by Tri-State G&T 100%

Location: Near Craig, in northwestern Colorado.

Description: Coal-fired, steam electric generating station.

Capacity: 1,260 megawatts from three 420 MW units.

Fuel source: Trapper Mine, adjacent to the station near Craig, and Colowyo Mine in northwestern Colorado.

Coal consumption: A maximum of 15,000 tons per day if all three units are running at full load.

Plant construction: Construction on Units 1 & 2 began in September 1974. Unit 2 completed in November 1979 and Unit 1 in January 1980. Unit 3 construction began in January 1980 and was completed in October 1984.

Construction costs:

Units 1 & 2 -- \$700 million.

Unit 3 -- \$510 million.

Environmental controls costs: \$285 million.

Environmental control equipment:

Electrostatic precipitator on Units 1 & 2 to control fly ash.

Wet limestone scrubbers on Units 1 & 2 to remove sulfur dioxide (SO<sub>2</sub>).

Fabric filter "baghouse" on Units 3 to control particulate matter.

Dry limestone scrubber on Unit 3 to remove SO<sub>2</sub>.

Approximate air emission from the plant:

SO<sub>2</sub>:

Unit 1 -- 5534 Cumulative Total Tons

Unit 2 -- 4886 Cumulative Total Tons

Nitrogen Oxides (NO<sub>x</sub>):

Unit 1 -- 0.34 pounds per million British Thermal Units (MMBTU) of heat input.

Unit 2 -- 0.36 pounds/MMBTU

Particulates: All units under allowable limits for opacity.

## **Four Corners (Navajo Reservation near Farmington NM)**

Operating data from SRP website<sup>35</sup>

Operator: Arizona Public Service Co. (APS is a subsidiary of Pinnacle West Capital Corp).

Owners: Units 1,2 & 3: APS 100%

Owners: Units 4 & 5:

Southern California Edison 48%

APS 15%

P.S.C. of New Mexico 13%

SRP 10%

Tucson Electric Power 7%

El Paso Electric 7%

Location: Navajo Indian Reservation, 15 miles west of Farmington, N.M., just south of U.S. Highway 550.

Description: Coal-fired, steam-electric generating station.

Capacity: 2,040 megawatts from two 170 MW units (1 & 2), two 745 MW units (4 & 5) and one 220 MW unit (3).

Fuel source: Nearby Navajo Mine, operated by BHP Utah.

Coal consumption: A maximum of 28,000 tons of coal per day if all units are running at full load.

Plant construction: Construction began in 1961. Unit 1 was completed in February 1963 and Unit 2 in May 1963. Unit 3 was completed in April 1964. Unit 4 was completed in May 1969 and Unit 5 in April 1970.

Construction costs: Units 1,2 & 3--\$98.5 million.  
Units 4 & 5--\$174.3 million.

Environmental controls costs: Units 1,2 & 3--\$47,950.  
Units 4 & 5--\$500 million.

Environmental control equipment:

Wet venturi scrubbers on Units 1,2 & 3 to control sulfur dioxide (SO<sub>2</sub>) and particulate emissions. Fabric filter particulate removal system or “baghouse” on Units 4 & 5, and a lime-slurry scrubber system to control SO<sub>2</sub> emissions. Fabric filter “baghouse” on Units 3 to control particulate matter. Dry limestone scrubber on Unit 3 to remove SO<sub>2</sub>.

Approximate air emission from the plant:

SO<sub>2</sub>:

Unit 1 -- 13309 Cumulative Total Tons

Unit 2 -- 11770 Cumulative Total Tons

Nitrogen Oxides (NO<sub>x</sub>): Unit 1 -- 0.513 pounds per million British Thermal Units (MMBTU) of heat input.

Unit 2 -- 0.517 pounds/MMBTU

Particulates:

All units under allowable limits for opacity.

Data from Pinnacle West website for Four Corners plant <sup>36</sup>

“Four Corners’ total net generation capacity is 2,040 megawatts, enough to power more than 300,000 homes. It is one of the largest coal-fired generating stations in the U.S. The total original cost of all five units was \$283 million.

“The low-sulfur coal burned at Four Corners comes from the adjacent Navajo Mine, operated by BHP Minerals. The five boilers burn an average of 28,000 tons of coal each day, or about 10 million tons annually.

“Cooling water for all five units comes from the man-made Morgan Lake, adjacent to the plant.

“Four Corners delivers power through its switchyard to utilities in Arizona, California, New Mexico and Texas.

“By the end of 1990, abundant, low-sulfur coal had become the fuel for 62 percent of Arizona Public Service Company’s electric generation needs. Today, we are continuing to increase our reliance on the most economical fuels available - coal and uranium - so that, by the end of the century, even more of our electric load requirements will be met using these fuels.”<sup>37</sup>

#### Non-company sources of information

Four Corners pollution record [http://dinecare.indigenousnative.org/4\\_corners\\_toxins.html](http://dinecare.indigenousnative.org/4_corners_toxins.html)

### **Hayden (Hayden CO)**

#### Operating data from SRP website<sup>38</sup>

Operator: Public Service Co. of Colorado (PSC)

Owner: Unit 1  
PSC 75.5%  
PacifiCorp 24.5%  
Unit 2  
SRP 50.0%  
PSC 37.4%  
PacifiCorp 12.6%

(PSC merged with Southwestern Public Service Co. of Texas).<sup>39</sup>

Location: Four miles east of Hayden, Colorado, along U.S. Highway 40 in Route County, Colorado.

Description: Coal-fired, steam-electric generating station.

Capacity: 446 megawatts; 184 MW from Unit 1 and 262 MW from Unit 2.

Fuel source: The Seneca Mine, six miles away.

Coal consumption: A maximum of 5,100 tons per day if both units are running at full load.

Plant construction: Unit 1 construction began in April 1962 and was completed in July 1965. Unit 2 construction began in March 1973 and was completed in September 1976.

Construction costs: \$170 million, including \$33 million in environmental-control equipment.

Environmental control equipment:

Hot-side electrostatic precipitators to control fly ash and particulates.

Closed-cycle, zero-discharge water-cooling system.  
Evaporation and holding ponds to eliminate discharge in Yampa River.  
Dust and runoff-control designed coal and ash-handling facilities.

Approximate air emission from the plant:

Sulfur dioxide (SO<sub>2</sub>) -- 7,607 cumulative total tons  
Nitrogen oxides (NO<sub>x</sub>) -- 0.37 pounds per million British Thermal Units (MMBTU) of heat input.  
Particulates -- 0.01 pounds per MMBTU.  
Scrubber being installed.

## **Kyrene (Tempe AZ)**

Operating data from SRP website<sup>40</sup>

Owner/operator: Owned and operated by SRP. SRP is proposing an expansion for this facility. Please check [www.kyrenefacts.org](http://www.kyrenefacts.org), for information on this project.

Location: Tempe, Ariz., south of Guadalupe Road on Kyrene Road.

Description: Two steam generation units and three combustion turbine generators.

Capacity: 250 megawatts from five units.

Fuel source: The station can burn either natural gas or oil, depending upon availability and cost.

Fuel consumption: When burning oil, Units 1 and 2 use 214,200 gallons a day at full load. When using natural gas, they burn 27,264,000 cubic feet a day at full load.

Plant construction: Construction began in 1951. Unit 1 was completed July 1, 1952. Unit 2 was completed on June 1, 1954. The three gas turbines were constructed in the early 1970s.

Construction costs: \$35 million.

Peaking power:

Kyrene is a quick source of electricity; Units 5 and 6 can produce electricity within nine minutes. Kyrene units add critical power to meet peak power demands. Kyrene units do not run when system demand is being supplied by less-expensive energy from other power plants. Kyrene is SRP's oldest operating steam plant

### Kyrene Expansion Project

from the SRP website<sup>41</sup>

Certificate of Environmental Compatibility Process  
Application filed: June 14, 2000

Siting Committee hearing and approval: Aug. 14, 2000  
ACC approval: Nov. 1, 2000

Air permit  
Application filed with Maricopa County: August 2000  
Permit issued: March 14, 2001

EPA process  
Draft Environmental Information Document filed with EPA: November 2000  
Environmental Assessment and Draft Finding of No Significant Impact issued by EPA: February 2, 2001  
Final Finding of No Significant Impact issued by EPA: March 23, 2001  
National Pollution Discharge Elimination System (NPDES) permit for wastewater discharge to be issued:  
fall 2001

Plant construction and operation  
Construction scheduled to begin: March 2001  
Commissioning and start-up: February 2002.<sup>42</sup>

#### Comments on Kyrene expansion

Tempe to give proposed SRP plant an examination, by Chris Fiscus, Arizona Republic, March 3, 2000

Tempe agrees to review proposed plant expansion, by Alan Levine, Tempe Chandler Wrangler News.<sup>43</sup>

Agreement between the City of Tempe and the Salt River Project, Save Our Air website.<sup>44</sup>

### **Mohave (Laughlin NV)**

#### Operating data from SRP website<sup>45</sup>

Operator: Southern California Edison

Owners:

Southern California Edison 56%  
Los Angeles Dept. of Water & Power 20%  
Nevada Power Company 14%  
SRP 10%

Location: Southern tip of Nevada, in the town of Laughlin.

Capacity: 1,580 megawatts from two 790 MW units.

Fuel source: Peabody Western Coal Company's Black Mesa Mine near Kayenta, Ariz. Sulfur content of coal is 0.5%.

Coal consumption: A maximum of 18,240 tons per day if both units are running at full load.

Plant construction: Construction began in June 1967. Unit 1 was completed April 1971 and Unit 2 in October 1971.

Construction costs: \$214 million, including \$10 million in environmental control equipment.

Environmental control equipment:

Electrostatic precipitators to control fly ash.  
Lined waste water pond with geophysical leak-detection system.  
Ash disposable protection dam.

Approximate air emissions:

SO<sub>2</sub>:

Unit 1 -- 21524 Cumulative total tons

Unit 2 -- 19831 Cumulative total tons

Nitrogen oxides (NO<sub>x</sub>):

Unit 1 -- 0.420 pounds per million British Thermal Units (MMBTU) of heat input.

Unit 2 -- 0.389 pounds/MMBTU

Particulates:

All units under allowable limits for opacity.

### **Navajo (Navajo Reservation near Page AZ)**

Operating data from SRP website<sup>46</sup>

Operator: SRP

Participants:

U.S. Bureau of Reclamation 24.3%

SRP 21.7%

Los Angeles Dept. of Water & Power 21.2%

Arizona Public Service Co. 14.0%

Nevada Power 11.3%

Tucson Electric Power 7.5%

Location: Navajo Indian Reservation near Page, Ariz., 80 miles northeast of the South Rim of the Grand Canyon.

Description: Coal-fired, steam-electric generating station.

Capacity: 2,250 megawatts from three 750 MW units.

Fuel source: Peabody Western Coal Company's Kayenta Mine near Kayenta, Ariz. Sulfur content of coal is 0.6 percent.

Coal consumption: A maximum of 25,000 tons per day if all units are running at full load.

Plant construction: Construction began in the early 1970s. The first unit began producing electricity in 1974. Commercial operation of the other units began in 1975 and 1976.

Construction costs: \$650 million, including \$200 million in environmental-control equipment. An additional \$420 million was spent on new scrubbers.

Environmental control equipment:

Electrostatic precipitators to control fly ash.

Water reservoir is lined to help recover and contain process waste.

Navajo Scrubber Project

Service area: Serves electric customers in Arizona, Nevada and California. The station also supplies energy to pump water through the Central Arizona Project.

Approximate air emissions:

SO<sub>2</sub>:

Unit 1 -- 0.03 pounds per million British Thermal Units (MMBTU) of heat input.

Unit 2 -- 0.03 pounds/MMBTU

Unit 3 -- 0.03 pounds/MMBTU

Nitrogen Oxides (NO<sub>x</sub>):

Unit 1 -- 0.38 pounds per million British Thermal Units (MMBTU) of heat input.

Unit 2 -- 0.38 pounds/MMBTU

Unit 3 -- 0.38 pounds/MMBTU

Particulates: All units under allowable limits for opacity.

Navajo Scrubber Project <sup>47</sup>

SRP's Navajo Generating Station (NGS), near Page, Arizona, has completed a multi-year construction project that improves air quality in the region. During this period, SRP installed three scrubbers at Navajo, one for each electric generating unit at the plant. With the scrubbers, Navajo is among the cleanest coal-fired power plants in the U.S.

The Navajo Scrubber Project was part of a negotiated settlement between SRP, the state of Arizona, the Grand Canyon Trust and the U.S. Environmental Protection Agency. Under the settlement, SRP agreed to remove approximately 90 percent of the sulfur dioxide (SO<sub>2</sub>) produced by the combustion of low-sulfur coal at Navajo.

In addition to eliminating almost all of the SO<sub>2</sub> emissions from the plant, the wet-scrubber process used at Navajo also removes more fly-ash, the gray-colored particulate produced by burning coal, which means clear skies.

What is NGS?

NGS (Navajo Generating Station) consists of three 750 megawatt (MW) coal-fired generating units. Located approximately six miles east of Page, Ariz., NGS is a participation plant owned by a consortium of electrical power utilities and a division of the United States government. SRP, the nation's third-largest public power utility, is the plant manager for NGS.

The plant was initiated in 1968 as an alternative method to meet the power needs of the Southwest after a major hydroelectric project was blocked. NGS' first unit became operational in May 1974, and the entire plant was functional in April 1976.

#### How scrubbers work

Scrubbers were installed on NGS' three generating units in compliance with the EPA's Final Ruling. The basic purpose of the scrubbers is to remove sulfur dioxide from the gases emitted through the plant's three chimneys.

To scrub these gases, they are mixed with a reagent, lime or limestone, which causes the sulfur dioxide to be absorbed by the reagent. The reagent containing the sulfur dioxide then is disposed of in an environmentally compatible manner.

Today two basic scrubber processes exist; wet and dry. The wet scrubber process uses equipment to mix reagent and water and to spray the mixture directly into the flue gases. The dry scrubber process uses a rotary atomizer to atomize the reagent into the flue gases. The Navajo Scrubber Project retrofitted wet limestone forced-oxidation scrubbers at NGS in order to meet the EPA's Final Ruling.

#### Who owns NGS

NGS is a participation plant owned by a consortium of five electric utilities and the United States government. The participants are responsible for portions of the scrubber project costs respective to their percentage of ownership:

United States Bureau of Reclamation (USBR) 24.3%  
Salt River Project (SRP) 21.7%  
Los Angeles Department of Water and Power 21.2%  
Arizona Public Service Co. 14.0%  
Nevada Power Co. 11.3%  
Tucson Electric Power Co. 7.5%

SRP manages NGS and the associated scrubber project on behalf of the participants.

#### Project milestones

Establish Binding Contract with AE - June 1, 1992 (April 21 - Actual)  
Initiate Construction - Jan. 1, 1995 (Oct. 17, 1994 - Actual)  
Initiate First Unit Start-Up - May 1, 1997 (Feb. 7, 1997 - Actual)  
First Unit in-Service - Nov. 19, 1997 (Actual)  
Initiate Second Unit Start-Up - May 1, 1998 (Nov. 10, 1997 - Actual)  
Second Unit in-Service - Nov. 19, 1998 (Actual)  
Initiate Third Unit Start-Up - Feb. 1, 1999 (July 7, 1998 - Actual)  
Third Unit in-Service - Aug. 19, 1999 (Actual)  
Demolition of all three original chimneys completed - September 2000

## Project costs

The original project budget was \$530 million. As of Nov. 1, 1999, we estimate that project costs will total \$420 million. Completing the project “under budget” was accomplished through value engineering, contracting strategies and competitive bidding.

## Training

More than 142 Navajos completed various levels of training for specific crafts. The craft training program was discontinued in October 1997. The peak workforce required for the project occurred in December 1996 and was approximately 600 workers -- on average, 96% of these workers were Navajos. Training opportunities continue to be explored for future O&M purposes.

## Transportation

Due to the potential impacts of truck hauling activities in providing reagent by a trucking operation, the local representatives of ADOT and SRP partnered to accelerate a planned bypass road to avoid trucking impacts to the local access routes. On March 16, 1995, SRP signed an Interagency Agreement with the Arizona Department of Transportation (ADOT) to provide up-front funding to accelerate the construction schedule on the proposed State Route 89 to 98 Highway inter-tie which was completed on Oct. 12, 1995. ADOT reimbursed SRP on July 12, 1996.

## Contact information

For more specific information about the Navajo Scrubber Project, or to find out about Project Services (project management, engineering, procurement and construction) available through SRP, please call (602) 236-2552 or e-mail aarojas@srpnet.com. You also can learn about the Project Services’ Homeward Bound project.

## Chimneys Demolished to Reduce Pollution

A \$420 million project intended to cut pollutants emitted by a northern Arizona power plant has been completed with the demolition of the last of the plant’s three original chimneys. The project at the Salt River Project’s Navajo Generating Station in Page stemmed from environmentalists’ efforts to protect visibility at Grand Canyon National Park. The last tower was demolished Aug. 31.<sup>48</sup>

## **Palo Verde (west of Phoenix AZ)**

### Operating data from SRP website<sup>49</sup>

Operator: Arizona Public Service Co. (APS)

Owners:

APS 29.1%

SRP 17.5%

El Paso Electric Co. 15.8%

Southern California Edison 15.8%

Public Service Co. of New Mexico 10.2%

Southern California Public Power Authority 5.9%  
Los Angeles Dept. of Water & Power 5.7%

Location: Fifty-five miles west of Phoenix, Ariz.

Description: Uranium-fueled, steam-electric nuclear generating station. Palo Verde is a pressurized water reactor.

Capacity: 3,810 megawatts from three 1,270 MW units.

Fuel source: Enriched uranium fabricated by Combustion Engineering of Windsor, Conn.

Uranium consumption: Each of the three units are reloaded with 800,000 pounds of uranium every 18 months. The three units use a combined average of 1.6 million pounds of uranium per year.

Plant construction: Construction began in June 1976. Unit 1 was completed in January 1986, Unit 2 in September 1986, and Unit 3 in January 1988.

Construction costs: \$4.7 billion for construction and \$1.2 billion for pre-operational and startup testing, for a total of \$5.9 billion.

Environmental controls cost: According to a state of Arizona study, 22% of the facility's cost is environment-related.

Emissions from the plant: Palo Verde is a zero-emissions facility.

#### Nuclear Decommissioning<sup>50</sup>

The total cost to decommission the District's 17.49% share of Palo Verde Nuclear Generating Station (PVNGS) is estimated to be \$271.8 million, in 1998 dollars. This estimate is based on a site specific study prepared by an independent consultant, assuming the prompt removal/ dismantlement method of decommissioning authorized by the Nuclear Regulatory Commission (NRC). This study is updated as required, every three years, and was last updated in the fall of 1998. Based on the 1998 site study, the District estimates its share of ultimate decommissioning expenditures will be \$1.9 billion.

The estimate assumes earnings on the decommissioning funds of 7.65%, as well as a future annual escalation rate of 5.92% in decommissioning costs. The actual decommissioning costs may vary from the estimate. Expenditures for decommissioning activities are anticipated over a fourteen-year period beginning in 2024. Estimated decommissioning costs are accrued over the estimated useful life of PVNGS. The liability associated with decommissioning is included in deferred credits and other non-current liabilities in the accompanying Combined Balance Sheets and amounted to \$76.8 million and \$67.9 million as of April 30, 2000 and 1999, respectively.

Decommissioning expense, net of earnings on trust fund assets, of \$4.1 million and \$4.5 million was recorded in fiscal years 2000 and 1999, respectively. The District contributes to an external trust set up in accordance with the NRC requirements. Decommissioning funds of \$122.1 million and \$104.7 million, stated at market value, as of April 30, 2000 and 1999, respectively, are held in the trust and are classified as segregated funds in the accompanying Combined Balance Sheets. Unrealized gains on decommissioning fund assets of \$46.6 million and \$38.1 million at April 30, 2000 and 1999, respectively, are included in accumulated comprehensive income as a component of accumulated net revenues

## **Santan (Gilbert AZ)**

### Operating data from SRP website<sup>51</sup>

Owner/operator: Owned and operated by SRP. SRP is conducting a public planning process for the Santan Expansion Project. Please check [www.santanfacts.org](http://www.santanfacts.org), for information on this project.

Location: Corner of Warner Road and Val Vista Drive in Gilbert, Arizona.

Description: Four combined cycle, combustion and steam generation units.

Capacity: 300 megawatts, from four 75 MW units, plus 200 kilowatts from two 100-kW solar generating units.

Fuel source: The station can burn either natural gas or oil, depending upon availability and cost. The station is also capable of solar generation.

Fuel consumption: When burning oil, the units use 432,000 gallons a day at fullload. When using natural gas, they burn 57,600,000 cubic feet a day at full load.

Plant construction: Construction began in early 1973. Units 1 and 3 were completed in October 1974. Unit 2 was completed in December 1974. Unit 4 went on-line in May 1975.

Construction cost: \$55 million.

Environmental control equipment:

Electrostatic precipitator to serve as oil demister.

Power plant waster-water discharge is rerouted into a lateral for agricultural reuse and to avoid nitrate problems at a city treatment plant.

Concrete containment structure under acid and caustic storage tanks.

Intermediate load resource:

Santan is used to supplement base-load plants.

Santan is a relatively quick source of electricity, capable of producing power within 20 to 60 minutes.

Santan units are very efficient.

### Santan Expansion according to SRP

Metropolitan Phoenix is one of the nation's fastest-growing urban areas. That's why there is a need for an additional source of power in the East Valley. We're working with the community to provide electricity with as little impact on the surrounding area as possible.<sup>52</sup>

New poll shows Valley residents support increasing generation capacity

TEMPE (April 23, 2001) -- Arizonans have been watching the California electricity debacle and fear similar circumstances could occur in the Grand Canyon State if new generation facilities are not built and conservation measures undertaken, according to a new poll released today by Dr. Bruce Merrill of Arizona State University.

Among those with an opinion, 54% of the poll's respondents think that electric "brown outs" like those occurring in California are very (16%) or somewhat likely (38%) to occur in Arizona.

Additionally, 72% of those with an opinion, think that there are not enough generating plants in existence to meet the needs of future growth in Maricopa County.

"The fear of the California power experience is migrating into Arizona," said Merrill. "Valley residents are worried about brown outs, escalating electricity rates, and the need to adopt more energy conservation policies. With summer approaching, one can only anticipate this consumer angst will increase."

Besides building new power generating facilities, 76% of those with an opinion, feel that energy conservation policies should be adopted in Maricopa County to reduce electricity consumption.

Consumer pocket book issues were also prevalent in the poll. Of those with an opinion, 76% feel the "brown outs" occurring in California will have a significant (29%) or some (47%) impact on electric bills in Arizona.

The poll also showed that 90% of the respondents who knew about plans to expand SRP Santan Generating facility favored the plans expansion.

"This poll shows that Arizonans are focused on our region's electricity crisis," Merrill said. "Valley residents are very concerned and are ready to support remedies to the problem. They support a multi-faceted solution of building new power facilities, the utilization of alternative fuels, and the adoption of energy conservation policies."

The survey was based on a random sample of 403 adult heads of households living in Maricopa County and was conducted by professional interviewers on April 20-21, 2001.

The poll was commissioned by a coalition of Arizona Power Consumers, including the East Valley Partnership, Westmarc, the Arizona Association of Industries, and East Valley Chamber Alliance. It has a margin of error +/- of 4.9%.<sup>53</sup>

#### Power for progress

More people and more buildings create a need for more power. It's a simple equation.

During the past five years, the number of customers in SRP's electric service territory grew by about 16 percent. In the past fiscal year alone, SRP welcomed more than 27,000 new customers to its service territory.

SRP's challenge and responsibility is to prevent the growing demand for electric power to outstrip our available resources. This is especially true in the Southeast Valley, site of the majority of the population growth

In the next 10 years, the greatest power usage in SRP territory is expected to occur in Gilbert, Tempe, Mesa, Chandler the and Ahwatukee/east Phoenix area.

A new poll shows that Valley residents support increasing generation capacity to prevent electricity shortages such as those experienced in California.

#### Record demand

SRP delivered a record amount of energy to its Phoenix-area retail customers July 2, 2001. Between 4 and 6 p.m., SRP delivered a peak demand of approximately 5,163 megawatts (MW).

That peak topped the previous record of 5,002 MW, set July 26, 2000. In fact, in July 2000, customers surpassed SRP's all-time peak demand six times.

To offer a perspective, one megawatt is enough generating capacity to serve approximately 225 households.

To meet the need for additional power, there are only two choices:

1. Bring power in from a distant location via transmission lines. But this is an expensive option and would require locating additional power lines through existing neighborhoods.

2. Generate additional power at an existing facility located in the area of greatest need -- the East Valley. This is being proposed as the most cost-efficient and prudent solution to meet the future power needs of the Southeast Valley.

Please also see the article "Santan Expansion Will Benefit East Valley Residents."<sup>54</sup>

#### Property value findings

PricewaterhouseCoopers LLP has completed a real estate consulting assignment related to the proposed expansion of the existing SRP Santan Generating Facility (the "Facility") located near the southeast corner of Warner and Val Vista roads in Gilbert, Maricopa County, Arizona.

The purpose of this assignment is to evaluate the impact, if any, of the proposed Facility expansion (the "Expansion Plan") on the marketability, pricing and/or market value of improved residential properties located in the neighborhoods surrounding the Facility ("Study Area").

#### Findings and conclusions

Based on their analysis, PricewaterhouseCoopers has drawn the following conclusions, which are discussed in detail in the document linked at the end of this page:

Home sale price appreciation rates have remained generally consistent at varying distances from the Facility since before the initial announcement of the Expansion Plan to the present time. While there has been some variability across Study Areas during the Update Period, there is no empirical support for the proposition that the Expansion Plan has negatively affected home appreciation rates in neighborhoods nearest to the Facility.

There is no indication that the marketing time of homes located near the Facility has been negatively affected by the Expansion Plan.

There is no indication that the turnover rate for homes located near the Facility has been affected by the Expansion Plan.

The ratio of selling prices to listing prices for homes located nearest to the Facility has generally improved during the Update Period relative to prior time periods and relative to Study Areas located farther from the Facility.

Listing prices for homes located nearest to the Facility have increased at rates consistent with or exceeding those of homes located farther away.

Multivariate statistical analysis provides no support for the proposition that the Expansion Plan has negatively impacted home sale prices.

To review the detailed findings, click on the link below. To view the document, you will need the Adobe Acrobat Reader if you don't have it. It is free and you will only need to download it once. Then, return to this page and click on the link below:<sup>55</sup>

Property values findings <http://www.santanfacts.org/property.pdf>

Could Arizona face the woes of Southern California?

The following is a summary of issues published in news articles about the recent power shortage in Southern California. This information shows what could happen in Arizona if we fail to plan for additional sources of power to meet population growth.

Power prices rise in California

San Diego was hardest hit during the recent heat wave due to wholesale market swings caused by a combination of deregulation of the electric industry and lack of power generation capacity.

As a result, power prices in the San Diego area rose significantly this summer. San Diego Gas and Electric Co. reported that monthly electric bills nearly doubled from prices a year ago.

A typical residential power bill increased to about \$105 during the first week of August compared to \$55 for the same electricity during the same period last year.

Fixed-income customers and small businesses were hit the hardest.

Many small businesses saw profits evaporate into monthly electric bills, reported The San Diego Union Tribune.

Growth fuels power demand

In the last decade, demand for power surged along with the California economy, according to The New York Times. But utilities, fearing they would be unable to recover their costs as the state moved away from regulations that guaranteed them profits, stopped building power plants, leaving the state's power supply simply no longer able to keep up with peak demand.

California's economy has surged in the last five years, a boom led by Internet and high technology companies, which are voracious power users.

Growth is even more vigorous in the Pacific Northwest, Arizona and Nevada, making it harder for California to import the power on which it has relied.

The Wall Street Journal reported that California's crisis reflects several immense miscalculations:

that California could indefinitely rely on surrounding states to meet its energy needs. In fact, neighboring states power demands have been growing so fast that they have less and less surplus power to sell to California.

there was a dangerous assumption that demand would stay far beneath supply, so the state hasn't added significantly to its power plant capacity since the mid-1980s.

New power plants stalled

Power company officials have been critical about government reaction to this significant electricity supply shortage. Steve Baum, chairman of San Diego Gas and Electric Co. said the state has failed since it has done nothing to expedite construction of new power plants.

L.A. planned ahead

One region of California has eluded the power shortage crisis: The city of Los Angeles has excess generation capacity and has been able to meet its demand needs as well as sell power to keep the California power grid stable.

By investing in generation capacity in years past, Los Angeles has avoided the current crisis according to S. David Freeman general manager of the Los Angeles Department of Water and Power.<sup>56</sup>

#### Letters of support for its Santan expansion

have been published at the SRP website <http://www.santanfacts.org/letters.asp> including letters from:

Arizona State University  
Arizona Utility Investors Association  
Arizonans for Electric Choice and Competition  
Cerprobe Corporation  
East Valley Chambers of Commerce Alliance  
East Valley Institute of Technology District #401  
East Valley Partnership  
Gilbert Chamber of Commerce  
I.B.E.W. Local Union 266  
Roosevelt Water Conservation District  
Williams Gateway Airport

#### In the news

from SRP website<sup>57</sup>

The need for additional power generation is not only a local issue - various parts of the nation have experienced power grid overload. Most notably is California, which has suffered with a power crisis since summer 2000. Short supply and skyrocketing prices there have had effects on businesses and consumers alike.

The following articles will help keep you informed about the situation in California and in our own community.

“Environment, energy needs weighed: Commissioners found Santan balance,” © The Arizona Republic, May 2, 2001. [http://www.santanfacts.org/news/republic\\_010502.asp](http://www.santanfacts.org/news/republic_010502.asp)

“ACC approves Santan Expansion Project,” SRP news release, April 27, 2001. <http://www.santanfacts.org/cecapproval.asp>

“New poll shows Valley residents support increasing generation capacity,” ASU, April 23, 2001. <http://www.santanfacts.org/news/merrillpoll.asp>

“Gilbert created Santan plant debacle, now, it’s making it worse,” © The Arizona Republic, April 6, 2001. [http://www.santanfacts.org/news/republic\\_010406.asp](http://www.santanfacts.org/news/republic_010406.asp)

“Some question motives in Gilbert SRP vote,” by Edythe Jensen, © The Arizona Republic, April 5, 2001. [http://www.santanfacts.org/news/republic\\_010405.asp](http://www.santanfacts.org/news/republic_010405.asp)

“Assessor proves prophet of doom,” © The Arizona Republic, March 10, 2001. [http://www.santanfacts.org/news/republic\\_010310.asp](http://www.santanfacts.org/news/republic_010310.asp)

“Assessor Office off base predicting home values,” © The Arizona Republic, March 9, 2001. [http://www.santanfacts.org/news/republic\\_010309.asp](http://www.santanfacts.org/news/republic_010309.asp)

“Expansion project clears major hurdle,” SRP news release, Feb. 13, 2001. <http://www.santanfacts.org/approval.asp>

“SRP’s Santan add-on needed: Our chance to avoid a California-style crisis,” © The Arizona Republic, Jan. 25, 2001 [http://www.santanfacts.org/news/republic\\_010202.asp](http://www.santanfacts.org/news/republic_010202.asp)

“California electric crisis is warning: Keep our lights on!” © The Arizona Republic, Dec. 23, 2000. [http://www.santanfacts.org/news/republic\\_001223.asp](http://www.santanfacts.org/news/republic_001223.asp)

Southern California power crisis news summary. [http://www.santanfacts.org/news/arizona\\_000906.asp](http://www.santanfacts.org/news/arizona_000906.asp)

“Get the Facts on Santan Expansion,” by Mark Schnepf, July 22, 2000 [http://www.santanfacts.org/news/schnepf\\_000722.asp](http://www.santanfacts.org/news/schnepf_000722.asp)

“Santan Expansion Will Benefit East Valley Residents,” by Richard M. Hayslip, letter to the editor in the Gilbert Independent, June 7-13, 2000 [http://www.santanfacts.org/news/hayslip\\_000623.asp](http://www.santanfacts.org/news/hayslip_000623.asp)

“Deregulation weighs on overloaded U.S. power grid” , by Vibeke Laroi, March 13, 2000, ©Reuters. [http://www.santanfacts.org/news/laroi\\_000313.asp](http://www.santanfacts.org/news/laroi_000313.asp)

New on this site <http://www.santanfacts.org/new.asp>

Community Working Group information <http://www.santanfacts.org/cwg.asp>

Minutes from the latest public meetings <http://www.santanfacts.org/involved.asp#meetings>

Community Working Group public meeting scheduled <http://www.santanfacts.org/involved.asp#meetings>

## Hydrogeneration Facilities

### Operating data from SRP website

SRP operates several dams along the Salt River and the canal system, and operates two hydroelectric plants.

#### **Roosevelt Dam**

#### **Horse Mesa Dam**

#### **Mormon Flat Dam**

#### **Stewart Mountain Dam**

**Crosscut Hydroelectric Plant.** This facility is one mile north of downtown Tempe, where the Crosscut Canal drops 116 feet in Papago Park. The water is tunneled under Washington Street and then flows into the Grand Canal. This hydroelectric unit, which began commercial operation in late 1915, has a generating capability of three megawatts (MW).

**South Consolidated Hydroelectric Unit.** Constructed in 1981, this plant is located on a 35-foot drop in the South Canal in Northeast Mesa, just below the head of the Eastern Canal. Its generating capacity is 1.4 MW.

In addition, SRP has several hydroelectric power purchase contracts. See *Sources of Energy for SRP Facilities* below.

## Lakes, Dams, Canals

### Operating data from SRP website

SRP operates a system of six dams and 1,300 miles (2,092 kilometers) of canals and laterals, delivering nearly 1 million acre feet (1.2 billion cu. ft.) of water to eight cities as well as agricultural and urban irrigators.

Arizona Lakes & Dams <http://www.srpnet.com/water/lakes/>

Apache <http://www.srpnet.com/water/lakes/default.asp>

Bartlett <http://www.srpnet.com/water/lakes/bartlettlake.asp>

Canyon <http://www.srpnet.com/water/lakes/canyonlake.asp>  
Horseshoe <http://www.srpnet.com/water/lakes/horseshoelake.asp>  
Saguaro <http://www.srpnet.com/water/lakes/saguarolake.asp>  
Roosevelt <http://www.srpnet.com/water/lakes/rooseveltlake.asp>

Tempe Town Lake <http://www.srpnet.com/water/tempelake.asp>

Canal System <http://www.srpnet.com/water/canals/map.asp>

Canal characteristics <http://www.srpnet.com/water/canals/descriptions.asp>  
Canal map & distances <http://www.srpnet.com/water/canals/canalmapdistances.asp>  
Canal history <http://www.srpnet.com/water/canals/history.asp>  
Canal safety <http://www.srpnet.com/water/canals/canalsafety.asp>  
Canal dumping <http://www.srpnet.com/water/canals/canaldumping.asp>  
Canal dry-ups <http://www.srpnet.com/water/canals/canaldry.asp>

Water banking <http://www.srpnet.com/water/grusp.asp>

Water services <http://www.srpnet.com/water/services/>

## **New West Energy Corporation (SRP energy marketing subsidiary)**

New West Energy Corporation is a SRP unit set up in 1997 to market electricity outside its traditional service territory.

## **Papago Park Center Inc (SRP's real estate subsidiary)**

Gena Trimble, Manager  
Jane Lewis, Assistant Development Manager

Papago Park Center, Inc. is SRP's real estate management company, and a 350-acre wholly-owned business park in Tempe. Papago Park Center continues SRP's tradition of mixing public and private monies and structures.

SRP, which owns the land, is not subject to Tempe's zoning and planning regulations. The utility provider operates as a separate government entity under state law.<sup>58</sup>

Supposedly Papago Park Center is wholly-owned by SRP, but Pulice Construction listed a \$13 million contract with the City of Tempe for Papago Park Center, Phase II.<sup>59</sup>

The City of Tempe's agreement to lease land from Papago Park Center for a new stadium for the Arizona Cardinals has been questioned. SRP and Papago Park Center contributed money to the ballot measure.<sup>60</sup> City officials say "enough issues have arisen that they may seek help again" from former Arizona attorney general Grant Woods, who helped them negotiate their deal with the sports authority.<sup>61</sup> US Senator John McCain has joined the negotiations to deal with height issues raised by the FAA.<sup>62</sup> And Citizens have questioned the use of city monies.<sup>63</sup> Tempe is apparently responsible for about \$23 million

in up-front costs, “most of which will be covered by issuing bonds.”<sup>64</sup> The \$330 million stadium will be 70 percent publicly financed (half from county taxes), with the team contributing \$85 million but retaining all ticket, concession, and other NFL revenues.<sup>65</sup> Newspaper columnists have encouraged the project to fulfill “promises” to the community.<sup>66</sup>

For an article which includes Phoenix developer John F. Long's threat to sue to block public money being spent on stadium, the August 18, 2001 *Arizona Republic*.<sup>67</sup>

Gena Trimble, manager of Papago Park Center, Inc is chair of Urban Land Institute’s Public/Private Partnership-Gold (PPPC-G) as well as vice chair of the ULI’s Arizona District Council.<sup>68</sup> Other ULI executive committee members are employed by Grossman Company Properties, Pivotal Group, CB Richard Ellis, DMB Associates, SunCor Development, Vestar Development, Grubb & Ellis, City of Scottsdale, Westcor Partners, Arizona Land Advisors, Alliance Residential Co., and Opus West.<sup>69</sup>

According to the Tempe Chamber of Commerce, “Papago Park Center is booming on the north side of the Salt River. It is a 522-acre, \$2 billion mixed-use development. The headquarters of Salt River Project is located in the Center, along with other highly visible companies such as Tosco/Circle K, J.B. Rodgers Mechanical Contractors, OrthoLogic, Express Scripts and Three-Five Systems. DHL Worldwide Express is currently expanding its operations into the Park. Papago Park Center looks forward to future industrial, research and development, and office space expansion along with new retail and hospitality space.”<sup>70</sup>

Real estate and economic development consulting firm ESI conducted a “market research and analysis” for SRP on “ten select business locations within the Metropolitan Phoenix area. This work entailed conducting visual site inspections, utilizing GIS technology to create detailed maps of each area boundary incorporating parcel boundaries based on APN, land ownership, existing buildings and utility lines, creating an excel spreadsheet for each site on a variety of key factors, and recommending the appropriate mix of business and industry for target marketing purposes.”<sup>71</sup>

Downtown Tempe Community, Inc. describes “a number of park improvements and economic development projects including hotels, restaurants, mixed commercial developments and entertainment districts are currently in the planning or construction phases” in downtown Tempe.

“The four main developers include Ciudad del Lago, Hayden Ferry/Rio Salado Landing, Papago Park Center and Arizona State University. Ciudad del Lago is a 100-acre planned development project which includes the 1,000 room, five-star Peabody Resort Hotel and Conference Center. Development plans also include 300,000-plus square feet of retail, restaurant and entertainment venues near the Town Lake’s southeast perimeter.

“The Hayden Ferry development is a 30-acre site which will be located on the southside of the lake between Mill Avenue and Rural Road. Development plans include a full-service hotel, extensive office, retail and restaurant space, as well as a movie complex and lake-view condominiums. Other plans include pedestrian connections to Mill Avenue as well as the Town Lake.

“Papago Park Center, a 500-acre corporate office site, is located in the northwest end of Tempe’s Rio Salado Project. The center currently is home to such national and internationally acclaimed companies as: Tosco Corp., OrthoLogic, Three-Five Systems and the Salt River Project.

“Future recreational activities include fishing and swimming. These activities will be allowed once the City of Tempe’s water quality program has been completed.”<sup>72</sup>

## Sources of Energy for SRP Facilities

<b>SRP Facility</b>	<b>Energy Source (Owner)</b>
Agua Fria	natural gas, oil, and/or solar
Coronado	McKinley coal mine (Chevron's Pittsburgh & Midway) Fence Lake Mine (proposed source)
Craig	Colowyo coal mine (Kennecott Energy) Trapper coal mine (Trapper Mining Inc.)
Four Corners	Navajo coal mine (BHP International)
Hayden	Seneca coal mine (Peabody's Seneca Coal Company)
hydroelectricity	Roosevelt Dam (SRP) Horse Mesa Dam (SRP) Mormon Flat Dam (SRP) Stewart Mountain Dam (SRP) Hoover Dam (Arizona Power Authority) Glen Canyon Dam (U.S. Bureau of Reclamation) Parker and Davis Dams
Mohave	Black Mesa coal mine (Peabody Energy)
Navajo	Kayenta coal mine (Peabody Energy)
Palo Verde	uranium fabricated by Combustion Engineering
Santan	natural gas, oil, and/or solar

### **Black Mesa Mine**

(see also Kayenta Mine)

Peabody Western Coal Company (PWCC)'s Black Mesa Mine near Kayenta supplies SRP's Mohave station.

#### **EPA Superfund status: PEABODY COAL CO BLACK MESA MINE SITE**

<http://www.epa.gov/superfund/sites/arcsites/reg09/a0900674.htm>

#### **Peabody ownership**

Peabody Coal Company was founded in Chicago in 1883, and has since been owned by a string of interests and consortiums which included Kennecott Copper, Boeing, Bechtel, Eastern Enterprises, Newmont Mining, and Hanson PLC. In 2001, Peabody Energy completed an initial public offering of its own stock, thus becoming an independent, publicly held corporation again, but according to Hoover's Online in August 2001, Lehman Merchant Banking Partners owned nearly 60% of Peabody's stock.<sup>73</sup>

Peabody Energy

701 Market St., St. Louis, MO 63101

Phone: 314-342-3400

Fax: 314-342-7799

<http://www.peabodyenergy.com>

claims to generate 9% of US and 2.5% of world electricity  
controls 9.5 billion tons of coal  
produces 180 million tons per year  
operates 35 mines and processing facilities in 9 US states  
sells coal to 280 power plants and industrial facilities in the US and to customers in 10 other countries

## **Indian issues**

Peabody's predecessors in interest obtained coal leases from the Navajo and the Hopi tribe in 1964 and 1966. The leases cover a large coal deposit in the western part of the Navajo reservation known as Black Mesa. PWCC began surface coal mining operations on Black Mesa in 1972 in two separate coal mining operations known as the Black Mesa Mine and the Kayenta Mine.<sup>74</sup>

There are an estimated twenty billion tons of high grade, low-sulfur coal underlying Black Mesa.

Peabody Coal Company began strip-mining operations in 1968.

In year 2000 Peabody shipped 13 million tons of coal to the Mojave and Navajo stations.<sup>75</sup>

The Black Mesa and Kayenta mines provide 700 jobs; more than 90 percent of Peabody's work force is Native American.

Peabody's year 2000 \$49 million in royalties represent 40% of the Navajo Nation budget and 80% of the Hopi Tribe's budget.<sup>76</sup>

Peabody discovered coal at Black Mesa in northeastern Arizona in 1950, and leases were signed by Navajo and Hopi Tribal Councils in the 1960s as a result of corporate interest in native lands containing oil, coal, uranium, and natural gas. Since then, coal contracts at Black Mesa, located on Hopi and Navajo land, have led to the U.S. government forcibly relocating indigenous people from Big Mountain. Begun in 1986, the relocation has been under the guise of a long-standing "land dispute" between Hopi and Navajo, and the 1974 Navajo-Hopi Land Settlement Act (revised in 1980, 1985, and 1988). Peabody's Black Mesa coal mine supplies fuel to the Mohave power plant, which is owned by Southern California Edison, the Los Angeles Dept. of Water & Power, and Nevada Power. Eighty percent of Hopi tribal revenue comes from the mine. The mine itself has operated under temporary permits since the Surface Mining Control and Reclamation Act of 1977. Peabody uses about a billion gallons of water per year to slurry the coal from Black Mesa to the Mohave Generating Station in Laughlin, Nevada. Peabody has proposed building a pipeline to ship water from Lake Powell to the Black Mesa Mine (High Country News, Apr. 18, 1994, p. 4).

For background on the Navajo-Hopi land dispute and how it ties to the Navajo v. Peabody lawsuit over royalties, see:

Conspiracy Theories Still Rage Over Land, by Jerry Kammer, Arizona Republic, Feb. 2, 2000  
<http://www.azcentral.com/news/navahopi/navahopi4.shtml>

Navajo Lawsuits Contend U.S. Government Failed the Tribe in Mining Royalty Deals, by Barry Meier, New York Times, July 18, 1999, <http://college1.nytimes.com/guests/articles/1999/07/18/479790.xml>

## Hopis Join Navajo Lawsuit Against Coal, Power Firms

GALLUP, NM (Associated Press, March 4, 2000) -- "The Hopi Tribe has joined the Navajo Nation in a lawsuit against Peabody Coal Co., Southern California Edison Co. and the Salt River Project, alleging that the coal and power companies defrauded them. In papers filed in U.S. District Court in Washington, D.C., the Hopi Tribe says it seeks "to vindicate its right to control and receive full and fair compensation for its coal resources." The Hopis allege that Peabody, Edison and the SRP engaged "in a scheme to defraud and convert the money and property of the tribe through interference with the relationship between the tribe and the United States government," the Gallup Independent reported Friday. They contend the defendants "acted in concert to deliberately lure the Hopi Tribe and the Navajo Nation into renegotiating the terms of various coal mining leases, and then failed to negotiate in good faith." The Hopis said they were not aware of the scheme until the Navajos filed suit last year. Navajo President Kelsey Begaye said he welcomed the Hopi participation. The two tribes have been tangled in a land dispute for more than a century, but their joint coal leases are a common interest, and the lawsuit could bring both tribes additional money. "The Navajo Nation looks forward to standing together with the Hopi Tribe to obtain compensation for those damages to both our peoples," Begaye said."(Associated Press, March 4, 2000).

## **Colowyo Mine**

Over 75% of SRP's Craig Station coal requirements are supplied by under two long-term agreements with Kennecott Energy's Colowyo Coal Company (79,429 tons of coal per year) and the nearby Trapper Mining, Inc. mine (189,108 tons of coal per year).<sup>77</sup>

Colowyo Mine is at Meeker Colorado.

Owned by Kennecott Energy.

## **Fence Lake Mine (proposed source)**

From Albuquerque Journal, July 7, 1996

"The Fence Lake Mine has been in the works for 20 years. The Salt River Project, a public utility that supplies water and power to the Phoenix area, owns the rights to coal on thousands of acres of federal, state and private land at the mine, which would be in a remote area of western New Mexico about 14 miles north of Quemado and 60 miles south of Zuni Pueblo. SRP has spent more than \$3 million on environmental and archaeological studies while trying to get approval for the mine.

Final approval from state and federal officials is expected within weeks. SRP officials said they do not know when construction for the mine would start.

"Everything seems in order right now," said Jim O'Hara, the permitting coordinator in the New Mexico coal mine reclamation bureau. He likened approval for a mine permit to that of a driver's license and said SRP apparently has satisfied all its requirements for the mine.

“We would have to come up with a reason why we think they shouldn’t be approved,” O’Hara said.

Several tribes, with the Zunis leading the way, say they have plenty of reasons why the mine should not be permitted: the mine would use up groundwater, increase dust pollution, wipe out salt trails, disturb human burials and otherwise harm religiously significant sites.

Much of that was addressed in the federal Office of Surface Mining’s environmental impact statement, which in many cases found the mine’s impact minimal.

The study did say that cultural resources would suffer moderate to major impacts, but the agency is expected to approve the mine with conditions yet to be determined.

Tribal officials say their concerns weren’t given adequate consideration, and they have tried unsuccessfully to get additional public hearings on the mine.

The strip mine would supply 81.3 million tons of coal over the next several decades to the Coronado Generating Station near St. Johns, Ariz. The coal would be shipped to the power plant on a new 44-mile railroad the utility plans to build.

Producing coal from the new mine will be cheaper for the Salt River Project than buying it from other mines, such as the one near Gallup where it now gets its coal.

“It’s really a situation where you’re trying to find the cheapest coal you can,” Harelson said.

Water for the strip mine would come from the same aquifer that is believed to be supplying Zuni Salt Lake, Harelson said. But he added that a series of monitoring wells would alert the company to changes in the groundwater before those changes could affect the lake.

“If any changes to the aquifer occur, we will know it and modify our operations so there won’t be any effect on Zuni Salt Lake,” Harelson said.

Such assurances from the utility and from government environmental impact statements have not appeased the tribes.

The tribes also fear that a volcanic feature called Cerro Prieto could become a source for rock for construction at the mine. Cerro Prieto is the site of Zuni shrines and is an important religious site for Navajos, too.

Harelson said the SRP had not decided whether gravel from Cerro Prieto would be needed.

Indian religious freedom laws and a recent presidential order require federal agencies to protect Indian sacred sites. The presidential order directs federal agencies to protect sacred sites “to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions.”

Tribal officials contend the federal Office of Surface Mining and the state Mining and Minerals Division are more interested in getting the mine approved than in protecting water, air and cultural resources.

“It is not the business of the Salt River Project to protect Zuni Salt Lake,” Othole said. “It’s their business to provide cheap energy so the people of Phoenix can keep their air conditioners going.”

Othole, hinting at the possibility of a lawsuit, said the state’s relationship with tribal governments could be jeopardized if the mine is approved.”<sup>78</sup>

From Indian Country Today, June 23, 2000

Salt River Project Agricultural Improvement and Power District, an extensive utility in Arizona, plans to develop the 7,885-acre coal mine near Quemado in remote Catron and Cibola counties.

The Fence Lake Coal Mine would include a new 44-mile railroad corridor to haul coal across the state border into Arizona and fuel SRP’s Coronado Generating Station in St. Johns, Ariz.

The strip coal mine would operate for the next 38 years, extracting about 81 million tons of coal. It would be owned by the Salt River Project which contracted with the North American Coal Corp. to operate the facility to provide electricity to southern Arizona.

...

The Salt River Project declared water rights to several aquifers near the mine site in 1991. The New Mexico Mining and Minerals Division approved a mining permit which would allow SRP to pump an average of 85 gallons of water per minute for 40 years from any of those aquifers.”<sup>79</sup>

From The New Mexican, Jan. 7, 2001

“The Salt River Project Agricultural Improvement and Power District wants to mine more than 80 million tons of coal from some 18,000 acres of federal, state and private land in northern Catron and southern Cibola counties over the next 50 years.

The Arizona company proposes to build 44 miles of rail line to haul the coal from its proposed Fence Lake Mine to its electricity-generating station just across the state line in St. John’s, Ariz. The proposed mine site is about 14 miles north of the village of Quemado and about 12 miles from Zuni Salt Lake.

...

The Salt River Project has already secured federal and state leases for the coal, but its application for a federal permit to allow it to mine the site has been pending before the U.S. Department of Interior for more than a year.

The proposed mine site lies entirely within a 182,000-acre area called the Neutral Zone, which the federal government has determined to be eligible for listing on the National Register of Historic Places. The Zunis and other Indian tribes traditionally suspended hostilities against each other within the zone because of the importance to all of them of gathering salt at the lake.

...

During 40 years of mining planned at the site, the Salt River Project proposes to pump an estimated 5,424 acre-feet of water from the ground, mostly for dust suppression. An acre-foot is about 325,000 gallons, or the amount of water that would cover an acre to a depth of 1 foot.

Various hydrologists retained by either the company or the Zunis have come up with different answers to the question of whether pumping groundwater for the mining operation would harm the lake. While the company's studies have concluded that it would not, the pueblo's experts have concluded that it might.

An environmental-impact study prepared by the federal Office of Surface Mining, meanwhile, recommends the government approve the mining plan. Although the Zunis and others petitioned the federal Office of Surface Mining to declare the entire Neutral Zone unsuitable for mining because of its cultural significance, the agency declined to do so.

...

the Zunis are pursuing a lawsuit in state court in Santa Fe challenging the New Mexico Mining Commission's approval of the mine. If the federal government approves the project, the pueblo could take that matter to federal court as well.

...

The Salt River Project currently gets coal for its Coronado Generating Station near St. John's from the McKinley Mine north of Gallup. Barnard, the Fence Lake project manager, said the utility has to find another source because that mine is projected to play out in perhaps five to seven years."<sup>80</sup>

## **Kayenta Mine**

(see also Black Mesa Mine)

Peabody Western Coal Company's Kayenta Mine near Kayenta, Arizona supplies SRP's Navajo station.

The Kayenta Mine produces approximately 7.5 million tons of coal each year, resulting in approx. \$45 million in royalties paid by PWCC to the Navajo Nation annually.<sup>81</sup>

The mine covers over 10 miles on the Navajo Indian reservation.

### **EPA Superfund status: PEABODY COAL CO KAYENTA MINE SITE**

<http://www.epa.gov/superfund/sites/arc/sites/reg09/a0900156.htm>

### **Kayenta OSM permit renewal**

Peabody's Kayenta mine permit was renewed by the U.S. Office of Surface Mining in July 1995; the Navajo's Dine Alliance, and Don't Waste Arizona filed an appeal of the renewal; a U.S. Dept. of Interior judge reversed the permit renewal, citing desecration of burial sites, poisoned livestock, and air and water pollution; Peabody is being allowed to operate temporarily, but was ordered to meet permit requirements (High Country News, Apr. 29, 1996, p. 3).

According to the Dine Alliance,

“Twelve (12) outstanding violations are still unresolved. A new, highly controversial coal mining method (Highwall Side Overburden Mining) is being considered without the required Environmental Impact Statement (EIS). The unpermitted railroad continues to operate in violation of applicable federal regulations, with no reclamation bond money posted for it or the Kayenta mine site. The unpermitted and illegal slurry pipeline continues to pump over 1.3 billion gallons of pristine water annually. The unpermitted and illegal slurry pipeline continues to operate under Administrative Block, pending no continued use of the Navajo aquifer by the Hopi Tribal Council, past their permit expiration. Hopi Tribal Council Studies documents have determined that at the present rate of usage, water sources in Tuba City and surrounding communities will run dry in fifteen years. The Navajo aquifer is a sole source aquifer for the Hopi and Navajo. Burial sites of the Dineh people continue to be desecrated and human remains bulldozed by Peabody.”<sup>82</sup>

Dineh Alliance  
c/o Louise Benally, President  
Box 810, Pinon, AZ 86510  
E-mail: dineh@primenet.com

Dineh Alliance (dineh@primenet.com) analysis, March 21, 1996,  
<http://nativenet.uthscsa.edu/archive/nl/9603/0199.html>

Julian W. James analysis against OSM permit renewal  
<http://nativenet.uthscsa.edu/archive/nl/9507/0110.html>

## **Water issues**

A slurry pipeline that runs from Peabody’s Kayenta mine to Bull Head City, Nevada, uses two-to-three million gallons of Navajo Aquifer water daily. As a result, the whole Dinnebito Watershed ecosystem is drying up, causing a loss of vegetation and increasing erosion. At present rates of usage, water resources are expected to run dry in 15 years.<sup>83</sup>

Water issues resources <http://jeff.scott.tripod.com/water.html>

## **McKinley Mine**

The McKinley Mine supplies coal to SRP’s Coronado facility.

McKinley Mine is located east of Window Rock near the New Mexico-Arizona border.

Company office  
P.O. Box 4590, Gallup, New Mexico 87305-0338  
Phone: (505)371-6220  
Fax: (505)371-6289

McKinley Mine has been active since 1962.

Ownership of Surface: Federal, Indian Allotment, State Trust, Private Fee.

Ownership of Minerals: Federal, State Trust.<sup>84</sup>

Production:<sup>85</sup>

1997 - 6,606,700

1998 - 6,923,700

1999 - 7,184,365

Customers:<sup>86</sup>

Arizona Public Service's Cholla plant at St. Joseph, Arizona.

Salt River Project Coronado Station, St. John's Arizona.

Tuscon Electric, Irvington Station, Tuscon, Arizona.

Stone Container, Snowflake Arizona.

Arizona Electric Power Coop, Apache Generating Station Benson, Arizona.

McKinley mine is on the Navajo reservation, and more than 90 percent of the mine workers are Navajo. Labor strike from May to August 2000.<sup>87</sup>

McKinley Mine is expected to close in 2006.

McKinley Mine is operated by **Chevron subsidiary Pittsburg and Midway Coal Co.**

Pittsburg & Midway Coal Mining Co

6400 S Fiddler's Green Circle, Englewood, CO 80111

Tel.:303-930-3600

P&M owns and operates five coal mines in four states - the York Canyon Mine near Raton and the McKinley Mine by Gallup in New Mexico, the open-pit Kemmerer Mine in Wyoming, and the underground North River Mine in Alabama and Sebree Mine in Kentucky. The mines' principal customers are electric utilities and industrial concerns in Alabama, Arizona, Idaho, Kentucky, Texas, and Wyoming. P&M has a one-third partnership interest in the Black Beauty Coal Co. in Indiana, a joint ownership with Wesco Resources, Inc. of extensive low-sulfur coal reserves in Montana, and a 30-percent ownership of Inter-American Coal Holding N.V. of Aruba, which has its principal interests in an active coal mine and other assets in Venezuela.<sup>88</sup>

In August 1998 Chevron announced its intent to sell P&M but as of August 2001, had not.<sup>89</sup>

Meurer said Chevron will sell P&M's holdings as a total package and will not separately sell assets. P&M produced 19.6 million tons of coal in 1997. Chevron's coal and other minerals business segment, which primarily comprises P&M coal operations, earned \$48 million in 1997. P&M was founded in Pittsburg, Kan., in 1885. Chevron acquired P&M in 1984 as part of its acquisition of the company's previous owner, Gulf Oil Corp.<sup>90</sup>

## Navajo Mine

The Navajo Mine supplies SRP's Four Corners station, which consumes a maximum of 28,000 tons of coal per day if all units are running at full load.<sup>91</sup>

Navajo Mine is operated by BHP.<sup>92</sup>

BHP (formerly Broken Hill Proprietary, now BHP Billiton) is Australia's largest public company, with \$14 billion in revenues from steel, petroleum and mining. Began in the 1880s; Australian steel monopoly by the 1930s; World War II munitions; offshore oil drilling in the 1960s; major operations include Australia (iron ore in Western Australia; silver, lead, zinc and coal in Queensland; coal in New South Wales), Brazil (iron ore), the United States (coal and copper), Indonesia (coal), Chile (copper), Papua New Guinea (copper), Peru (copper) and Canada (diamonds), as well as operations in South Africa, Malaysia, Indonesia, Mozambique, Argentina, Brazil, Colombia, Suriname, Venezuela, etc. Subsidiaries and operations are listed at the BHP and Mbendi websites.<sup>93</sup>

BHP's operational control over the infamous OK Tedi mine in Papua New Guinea has earned it a place on lists of the worst corporations.

Navajo mine has been listed by the EPA as a Superfund site.<sup>94</sup>

BHP Minerals  
300 W Arrington, Suite 200  
Farmington, NM 87401  
Telephone: 505-598-4350  
Facsimile: 505-325-3574

From the BHP website for New Mexico operations:<sup>95</sup>

“BHP owns and operates three large surface coal mines in the northwestern area of the State of New Mexico collectively managed under the name of New Mexico Coal Operations. Together, the Navajo, San Juan and La Plata mines produce approximately 14 million tons of coal annually and employ about 900 people with an annual payroll of \$55 million. Seventy-five percent of BHP's employees are members of the Navajo Tribe of Indians. Navajo Mine, which provides coal to the Four Corners Power Plant operated by the Arizona Public Service Company, is located on the Navajo Indian Reservation (Navajo Nation). The San Juan and La Plata mines supply fuel to the Public Service Company of New Mexico's San Juan Generating Station which is located adjacent to the Navajo Nation. Together, these facilities produce about 4 000 MW of electricity for distribution throughout the southwestern United States. The Navajo Mine, which is the largest of BHP's three New Mexico mines, employs 428 people, produces approximately 8 million tons of coal per year and has operated continuously since 1963 without any work stoppages. The hourly workforce is represented by the International Union of Operating Engineers pursuant to a collective bargaining agreement with BHP. The lease agreement between the Navajo Nation and BHP, entered into in 1957, requires Navajo Mine to provide preferential employment, training, career development, and business opportunities for members of the Navajo Nation. In addition, current Tribal employment and business statutes require similar preferential treatment for Tribal members. The historical performance and success of BHP's Navajo workforce encourages our New Mexico Coal Operations to practice employment preference at the San Juan and La Plata mines even though they are not located on the Navajo Nation and are not contractually bound to implement the preference... BHP has successfully conducted coal mining operations on and near the Navajo Indian Reservation for the past thirty-five years. The Navajo Mine, which is located exclusively on Navajo lands, enjoyed record sales of 8.7 million tons of coal in FY '95. BHP's success demonstrates that Navajo resources can be productively and profitably developed under a lease arrangement that pays royalties and taxes and provides meaningful employment for Tribal members (Navajo Nation royalties approximated

\$20 million in calendar year 1997.) BHP's long term business relationship with the Navajo nation is founded upon BHP's recognition and understanding of the special circumstances that accompany business activity on the Reservation. Specifically, BHP has fulfilled its commitment to provide revenues and jobs to the Navajo people by enthusiastically honoring all contractual and statutory obligations regarding preferential employment and applicable Tribal and Federal rules that govern coal development on Navajo land."<sup>96</sup>

BHP also runs the Peaches uranium and vanadium mines.<sup>97</sup>

EPA Toxic Release Inventory data for the Navajo mine is available.<sup>98</sup>

## Seneca Mine

The Seneca Mine supplies SRP's Hayden station, , which consumes a maximum of 5,100 tons per day if both units are running at full load.<sup>99</sup>

Seneca Coal Company is owned by **Peabody**.<sup>100</sup>

"Seneca Mine has been in operation 35 years... In fiscal 2000, Seneca's 100 employees produced 1.4 million tons of compliance coal for the nearby Hayden Station, [and] has delivered more than 42 million tons since the [Hayden] plant began producing electricity. {The mine has an] annual payroll and fringe benefits of more than \$6.3 million."<sup>101</sup>

### Feud between gas and coal

PSC turns up heat on big coal suit, by Paula Aven, Denver Business Journal, Nov 15, 1996

"Natural gas producers are furious about Public Service Company of Colorado's decision to continue burning coal at its Hayden Generating Station, but some coal companies are fuming about the way the state's biggest utility is trying to slash its fuel costs by \$144 million.

"Seneca Coal Co., primary supplier for the Hayden plant near Steamboat Springs, and Public Service are trading claims and counterclaims in Denver District Court over the actual amount of coal Public Service is required to buy from the company during the next 15 years.

"Public Service believes it is only obligated to purchase the bare minimum of coal from Seneca each month as outlined in the contract. The utility also argues that it should be allowed to buy the rest of its fuel for Hayden from other sources.

"Seneca insists that the contract, which doesn't expire until 2011, legally binds the utility into purchasing all of its fuel for the plant from the company's Seneca Mine.

"The contract locks in coal prices at about \$6 higher per ton of coal than the current spot-market price of \$15. Public Service believes that "any successful effort on our part to reduce the cost of coal will make it a better primary fuel for the plant," said Ralph Sargent, vice president of production and system operations at Public Service.

“Public Service currently buys about 1.6 million tons of coal a year from the Seneca Mine at a cost of \$21 per ton for a total of \$33.6 million annually. The company calculates that it could save about \$9.6 million a year or \$144 million over the remainder of the contract if it were allowed to pay market price for its coal.

“The utility is in the process of “looking at other coal supply alternatives” including coal from Cyprus Amax Coal Co.’s Twenty-Mile Mine about eight miles from the Hayden plant, he said.

“Richard Fanyo, an attorney for Dufford & Brown P.C. representing Seneca and its parent company Peabody Coal Co. in the suit, refused comment on the case.

“Public Service chose to continue burning coal at Hayden for a number of reasons, including the fact that the commodity price for natural gas is much higher than coal and that, to burn natural gas at Hayden, the utility would have to buy out its long-term contract with Seneca Coal Co.

“In the long run, it was cheaper to simply pay the \$130 million for pollution controls at the plant to meet environmental regulations, Sargent said.

“But the fact that the company is trying to find cheaper coal alternatives has the natural gas industry worried that the company will go outside Colorado for its coal supply, taking with it Colorado jobs and severance tax revenues, even though part of the reason Public Service chose coal over gas was to save Colorado mining jobs.

“Greg Schnacke, executive vice president of the Colorado Oil & Gas Association, said he is disappointed with this prospect because “we have the supply and the ability to burn Colorado gas in these power plants in Colorado.”

“Sargent said that out-of-state coal isn’t even an option at this point since there is no easy way to transport it to the Hayden plant.

“The utility estimated the cost of converting Hayden to natural gas as \$60 million. That includes connecting the plant with a major interstate pipeline and conversion of the boilers to natural gas, Sargent said. That, topped with an estimated \$17 million to \$34 million price tag to buy out the Seneca Coal contract, makes natural gas the more expensive long-term option.

““Gas is slightly less efficient than coal. That was the aspect that the gas industry took exception to. It’s part of their inability to understand the plant modifications necessary to make gas an economical fuel,” Sargent said. “You can’t just put gas in a coal-operated plant without making modifications to the plant.”

“Public Service plans to pass off its portion of the cost for pollution-control equipment to its merger with Southwestern Public Service Co. of Texas. Benefits of the merger have been listed as about \$770 million. The company will subtract its \$65 million portion of the Hayden tab from these benefits, Sargent said.

“Public Service jointly owns and operates Hayden with Oregon-based PacifiCorp and Arizona’s Salt River Project Agricultural Improvement and Power District.

““What is amazing to me is the number of companies doing this type of stuff all over the world, but when it comes to Colorado, the attitude we hear back from these folks is that these types of decisions seem to be preordained,” Schnacke said. “We’re in isolation in regards to an energy trend that is happening all over the country.”

“He added that, with competition coming down the pike in the electricity industry, he can’t understand why Public Service keeps making these “very expensive decisions, knowing that the rules of the game are about to change. I’d question whether those are prudent decisions.”<sup>102</sup>

“Public Service plans to pass off its portion of the cost for pollution-control equipment to its merger with Southwestern Public Service Co. of Texas. Benefits of the merger have been listed as about \$770 million. The company will subtract its \$65 million portion of the Hayden tab from these benefits, Sargent said.”<sup>103</sup>

## **Trapper Mine**

Over 75% of SRP’s Craig Station coal requirements are supplied by under two long-term agreements with Kennecott Energy’s Colowyo Coal Company (79,429 tons of coal per year) and the nearby Trapper Mining, Inc. mine (189,108 tons of coal per year).<sup>104</sup>

**Trapper Mine** is a surface coal mine located 6.5 miles south of Craig, Colorado, on State Route 13, and operated by Trapper Mining Inc (a Delaware corporation). Tri-State Generation and Transmission Association (Westminster, Colorado) has an ownership interest in the Trapper Mine.

W. Gordon Peters, President & General Manager  
Trapper Mining Company  
P.O. Box 187, Craig, CO 81626-0187  
Ph: 970-824-4401 (extension 111)  
Fax: 970-824-4632  
gordon@trappermine.com

2000 Large Surface Coal Mine Award. For outstanding reclamation and reestablishment of sharptail grouse habitat at the Trapper Mine in Craig, Colorado. This accomplishment that is particularly significant because the sharptail grouse has been proposed for listing as a threatened species under the Endangered Species Act.<sup>105</sup>

1990 Excellence in Surface Coal Mining Reclamation Award Winners.<sup>106</sup>

## **SRP Hydroelectric Facilities**

SRP operates four dams along the Salt River and the canal system that produce electricity at two generating stations in Tempe and Mesa. See *Profiles of Generating Stations* above.

## **Hydroelectricity Contracts**

Through contract power purchases, SRP also receives power from the Hoover, Glen Canyon, Parker and Davis Dams.

## **Hoover Dam**

SRP gets 79 MW via the Arizona Power Authority.

## **Glen Canyon Dam**

SRP gets 100 MW (less during winter months) via the U.S. Bureau of Reclamation's Colorado River Storage Project.

## **Parker Dam and Davis Dam**

SRP gets 32 MW total (less during winter months).

## **Natural Gas and Oil, Solar**

SP's Agua Fria and Santan facilities are powered by natural gas, oil, and/or solar electricity.

## **Renewable Energy**

SP's Agua Fria and Santan facilities are powered by natural gas, oil, and/or solar electricity.

In February 2000, SRP's Board of Directors approved a four-year, \$29 million program to fund renewable energy resources.

The program will use a variety of renewable technologies to create the greatest environmental benefit, including new solar water heating, solar thermal dishes and photovoltaics.

## **Uranium**

SRP's Palo Verde nuclear station is supplied with enriched uranium fabricated by Combustion Engineering of Windsor, Conn.<sup>107</sup>

Uranium consumption: Each of the three units are reloaded with 800,000 pounds of uranium every 18 months. The three units use a combined average of 1.6 million pounds of uranium per year.<sup>108</sup>

## **Economics of SRP's Long-Term Energy Contracts<sup>109</sup>**

The District has long-term contracts for coal and purchase power whose prices exceed the current and future expected market rates. To position itself for a competitive environment in the electric utility industry, the District renegotiated a contract during fiscal year 1997 whereby the District paid \$21 million per year in fiscal years 1998, 1999 and 2000 in return for a reduction in the long-term contract rate to the expected future market rate. The Board did not authorize recovery of this amount in electric prices.

### **Long-Term Power Contracts**

The District entered into three contracts, collectively, with the United States Bureau of Reclamation (United States), the Western Area Power Administration and the Central Arizona Water Conservation District (CAWCD) for the long-term sale, through September 2011 to the District, of power and energy associated with the United States' entitlement to NGS. The amount of energy available to the District varies annually and is expected to decline over the life of the contracts. The District pays a fixed amount under the contracts, pays the cost of NGS generation and other related costs, and supplies energy at cost to CAWCD for Central Arizona Project facilities. The fixed portion of the District's payment obligations under the three contracts totals \$47.0 million annually through fiscal year 2005, and \$301.3 million thereafter. Of the total obligation, \$25.2 million annually through fiscal year 2005 and \$161.7 million thereafter are unconditionally payable regardless of the availability of power. Payments under these contracts totaled \$84.7 million and \$97.1 million in fiscal years 2000 and 1999, respectively.

The District entered into two other long-term power purchase agreements to obtain a portion of its projected load requirements through 2011. Minimum payments under these contracts are \$38.2 million annually through fiscal year 2005, and \$225.1 million thereafter. Total payments, including the minimum payments, under these two contracts were \$57.9 million and \$55.1 million in fiscal years 2000 and 1999, respectively. In conjunction with the impairment analysis performed on generation-related operations, the District has recorded provisions for losses on these contracts (see Note 3). These provisions recorded in August 1998, of \$163.7 million, are being amortized over the life of the contracts, commencing January 1, 1999. Amortization of \$13.3 million and \$4.4 million has been reflected as a reduction in fuel expense in the Combined Statement of Net Revenues and Comprehensive Income in fiscal years 2000 and 1999, respectively. The remaining liability at April 30, 2000 of \$146.0 million is included in deferred credits and other non-current liabilities in the Combined Balance Sheets.

### **Fuel Supply**

At April 30, 2000, minimum payments under long-term coal contract commitments are \$120.0 million annually through fiscal year 2005, and \$526.2 million thereafter

## **Environmental Issues**

### **Environmental Policy Statement from SRP Website<sup>110</sup>**

SRP, the nation's oldest multipurpose reclamation project, was founded on the principles of resource stewardship. We strive to preserve the balance between serving growing customer needs and protecting natural resources. We do this by incorporating the following principles into our business practices:

#### Environmental stewardship

As an historical and integral part of central Arizona, SRP recognizes its responsibility to respond to environmental challenges associated with supplying water and power services to a growing customer base. SRP will pursue opportunities to preserve the quality of the natural environment while maintaining the community's quality of life.

#### Compliance

SRP is committed to complying with environmental laws and regulations. We do this through comprehensive compliance programs and self-evaluation of our facilities and operations. SRP provides employee training and communications to promote awareness of employees' individual roles and accountability for operational effects on the environment.

#### Good business practices

SRP recognizes that environmental protection, resource conservation and pollution prevention are sound business practices and add value to the services we provide. The efficient use of energy and water resources is encouraged by promoting customer awareness and supporting research in alternative energies, environmental controls and water management techniques. These activities contribute to controlling SRP's environmental costs now and reinforcing SRP's ability to remain competitive in the utility industry in the future.

#### Public partnerships

SRP is committed to working in partnership with the public, elected officials, federal, tribal and state agencies and other concerned parties on issues related to the Project's operations and protection of the environment. SRP advocates a balanced integration of sound science, customer values and resource preservation as a foundation for addressing emerging issues and creating environmental policy and strategies.

### **Environmental Statement from Annual Report 2000<sup>11</sup>**

SRP is subject to numerous legislative, administrative and regulatory requirements relative to air quality, water quality, hazardous waste disposal, and other environmental matters. SRP conducts ongoing environmental reviews of its properties for compliance and to identify those properties it believes may require remediation. Such requirements have resulted and will continue to result in increased costs associated with the operation of existing properties.

#### Air Quality

The federal Clean Air Act (CAA), as amended, among other things, requires reductions in sulfur dioxide and nitrogen oxide emissions from electric generating stations and regulates emissions of hazardous air

pollutants by generating stations. Pollution control equipment has already been installed at both the Navajo Generating Station and the Hayden Generating Station.

In December 1999, the participants in Mohave Generating Station agreed to a settlement in a lawsuit alleging numerous and continuing violations of opacity and sulfur dioxide standards. Under the terms of the settlement, the participants must install by January 1, 2006, a sulfur-dioxide scrubber and other pollution control equipment. Capital costs are estimated at \$300 million, of which the District's share would be \$30 million. These costs are included in the capital contingencies portion of the 2001-2006 Improvement Program.

In addition, the District and the other owners of Craig Generating Station have been named in complaints alleging, among other things, violations of opacity standards. The District estimates its costs to comply with the CAA at Craig to be approximately \$9 million and has adequate amounts in the capital contingencies portion of the 2001-2006 Improvement Program for potential CAA compliance programs.

### Coal Mine Reclamation

In management's opinion, there are sufficient accruals in the accompanying combined financial statements for the District's obligation to reimburse certain coal providers for amounts due for certain coal mine reclamation costs. However, the District is contesting certain other coal mine reclamation costs. Neither the District's responsibility or the ultimate amount of liability, if any, can be determined at this time. Management does not believe that the outcome of these matters will have a material adverse effect on the District's financial position or results of operations.

## Water Issues

### State facing water crisis with growth

by Shaun McKinnon, *Arizona Republic*, May 7, 2000

"If Arizona doesn't manage its water better, some of the state's shiny new cities could dry up like the deserts they sprang from. Growth is pushing communities ever closer to water crises:

"Prescott is running out. The rapidly growing city is depleting its groundwater and has no long-term surface water supply. Without another source, the increasing demand could begin to suck water from the Verde River, which serves Phoenix.

"Tucson has stretched its groundwater nearly to the limits and still hasn't found a way to better use its share of the Colorado River delivered by the Central Arizona Project Canal. The Old Pueblo has stored most of its CAP share by pumping it into underground aquifers.

"Pinal County's expected residential growth will compete with already hurting farmers, who hold onto a tenuous groundwater supply and face the loss of CAP water.

"Even metropolitan Phoenix, with a remarkably stable long-term water supply, still pumps too much groundwater and could run into shortages because cities in parts of the Valley haven't built the infrastructure to use CAP water. "We've been very careful about getting water, hoarding water, protecting

water and fighting with other people about water. But now, we have to face up to the reality that we're not going to get any more," said Phoenix attorney Grady Gammage, a member of the CAP governing board.

"We have a lot, but it's finite. And now, we have to think about how we're going to use it in the future." Toward that end, Gov. Jane Hull last week created a 20-member water commission and charged it with studying Arizona's water supplies, uses and what policy changes to recommend to the Legislature by 2002. Commission members will find plenty to talk about: . The state's groundwater basins are overdrawn. . Most of the rivers are tapped nearly to their limits. . Arizona now uses all of its non-CAP Colorado River water and will fully develop its CAP allocation by 2035.

"Frank Welsh, a Phoenix activist and author of *How To Create a Water Crisis*, said the commission should not only consider water supply, but water quality.

"It's an issue that's more sophisticated than Arizona's ever been," Welsh said. "We don't worry about getting the best drinking water for us." Conservation and better management of agricultural use, he said, could improve the quality and safety of drinking water.

"On paper, Arizona shouldn't have a water problem. The state gets enough water from the Colorado River alone to serve nearly three times the state's current 5 million population.

"But moving water from the Colorado to every corner of the state is expensive and impractical, which is why so many Arizonans get their water from the ground or from local rivers and streams, especially in rural areas. Groundwater has always been the cheapest and most readily available source; but now, it's the most threatened.

"With the population we have now, we are more than capable of pumping out the supply faster than it can be recharged," said Rita Pearson, director of the Arizona Department of Water Resources.

"Overpumping not only depletes a natural resource that will be needed by future generations, it leaves current users without a backup during drought, and it can lead to land subsidence and poor water quality. Under the 1980 Groundwater Management Act, the state closely regulates groundwater in five mostly urban areas: Phoenix, Tucson, Prescott and parts of Pinal and Santa Cruz counties.

"Each area has its own conservation goals and restrictions. In Phoenix, developers must prove they have an assured water supply for 100 years before they can build homes and businesses. By 2025, Phoenix users should be recharging back into the ground as much water as they take out. A system of canals, pipelines, reservoirs and underground storage basins could allow the Valley to support twice its current 3 million population. Agriculture still uses 53 percent of the Valley's water, and industry takes an additional 7 percent.

"The Valley's biggest cities rely mostly on the CAP and the Salt River Project, which manages water from the Salt and Verde rivers. But many smaller communities still use mostly groundwater because it's what they can afford. Citizens Utilities will spend more than \$6 million just to bring a small amount of CAP water to the Sun Cities. Peoria is spending \$36 million to treat SRP and CAP water.

"The CAP is the state's last and most expensive water frontier. The \$4.7 billion system, which carries 1.5 million acre-feet a year from the Colorado River, was built to give Phoenix and Tucson a reliable supply for the future.

"CAP officials say the water should be fully developed by 2035, though that depends in part on how several Indian tribes manage the nearly 600,000 acre-feet they will control through a series of federal

agreements. The tribes are expected to lease back as much as one-third of the water to cities, expanding the available supply, but again, at a higher price. An even bigger unknown is what will happen the next time drought hits the Southwest. If the Colorado runs low, Arizona's CAP rights fall behind California and Nevada.

"The SRP is already looking at two dry years and will supplement its regular supply this year with excess CAP water. Salt River officials also are watching Prescott, where growth is tugging at the regional watershed. "Prescott is affecting our watershed on the Verde River. And if we lose that, we would have to use more groundwater," said John Sullivan, the SRP's associate general manager for water.

"Most water officials agree the big decisions should be made soon, before the remaining water supplies are committed. Gammage believes water is the ideal tool to help create a long-term growth blueprint, one that envisions how Phoenix will look when it matures.

"We made the decisions about growth and then sent our emissaries out on a jihad to get water," Gammage said. "We should say we have limits, and then use them."<sup>112</sup>

### **OSM Will Make Environmental Study of Salt River Project Coal Mine**

Coal Week (20:32), 2. 8-8-1994.

## **Nuclear Issues**

### **Nuclear Insurance<sup>113</sup>**

Under existing law, public liability claims that could arise from a single nuclear incident are limited to \$9.5 billion. PVNGS participants insure for this potential liability through commercial insurance carriers to the maximum amount available (\$200 million) with the balance covered by an industrywide retrospective assessment program as required by the Price-Anderson Act. If losses at any nuclear power plant exceed available commercial insurance, the District could be assessed retrospective premium adjustments. The maximum assessment per reactor per nuclear incident under the retrospective program is \$88.1 million including a 5% surcharge, which could be applicable in certain circumstances, but not more than \$10 million per reactor may be charged in any one year for each incident.

Based on the District's ownership share in PVNGS, the maximum potential assessment would be \$46.0 million, including the 5% surcharge, but would be limited to \$5.2 million per incident in any one year.

### **Spent Nuclear Fuel<sup>114</sup>**

Under the Nuclear Waste Policy Act of 1982, the District pays 1/10 of one cent per kWh on its share of net energy generation at PVNGS to the Department of Energy (DOE). The DOE was responsible for the selection and development of repositories for permanent storage and disposal of spent nuclear fuel not later than December 31, 1998. However, the DOE has not yet accepted spent nuclear fuel and high-level radioactive waste from operators of any nuclear power plants. Because of the significant delays in the DOE's schedule, it is not certain when the DOE will accept PVNGS' waste or waste from the other

owners of nuclear power plants. Extended delays or default by the DOE would lead to consideration of costly alternatives involving serious siting and environmental issues.

The United States Court of Appeals for the District of Columbia Circuit has ruled that the DOE had an obligation to begin accepting used nuclear fuel in 1998. However, the court refused to issue an order compelling DOE to begin accepting used fuel. The Court ruled that any damages to utilities should be sought under the standard contract between the DOE and affected utilities. This ruling is under appeal and the final determination is pending.

PVNGS has capacity in existing fuel storage pools, which, with certain modifications, could accommodate fuel expected to be discharged from normal operations through 2002. Existing wet storage could be augmented with new facilities for on-site dry cask storage of spent fuel for an indeterminate period of operation beyond 2002, subject to obtaining any required government approvals. The District's share of on-site interim storage at PVNGS is estimated to be \$23.2 million for costs to store spent nuclear fuel from inception of the plant to date, and \$1.7 million per year going forward. These costs have been included in the District's regulated operations price plans for transmission and distribution.

## Indian Matters

### Toxic Waste Sites in Navajo Nation

The following locations in the Navajo Nation have been listed in EPA's Archive (NFRAP) database, which contains information on sites which have been removed and archived from the inventory of Superfund sites. Archive status indicates that to the best of the EPA's knowledge, Superfund has completed its assessment of a site and has determined that no further steps will be taken to list that site on the NPL.<sup>115</sup>

ARIZONA PUBLIC SVC FOUR CORNERS  
ARIZONA PUBLIC SVC SUBSTAS -  
CAMERON  
BESBITO-JEDDITO DIP VAT  
**BHP-NAVAJO MINE**  
BLACK SPRINGS DIP VAT  
BLUE CANYON ROAD DIP VAT  
BLUE GAP DIP VAT  
BLUEWATER URANIUM MINE (DOE)  
BLUEWATER URANIUM MINE (SANTA  
FE)  
BROWN VANDEVER MINE  
CAMERON ABANDONED LDFL  
CAMERON URANIUM ORE PILE  
COTTONWOOD BUTTE URANIUM MINE  
COTTONWOOD DIP VAT  
COVE DIP VAT  
DALTON PASS DIP VAT  
DIAMOND #2 URANIUM MINE  
FIRST WINDMILL DIP VAT  
FLEET MAINTENANCE

GAP DIP VAT  
GENERAL DYNAMICS CORP - NAVAJO  
FACILITY  
GRAY MOUNTAIN URANIUM  
CONCENTRATOR  
INSCRIPTION HOUSE DIP VAT  
JEDDITO ISLAND DIP VAT  
KAYENTA SUBSTATION  
LARGO DIP VAT  
LEE TOADLENA DIP VAT  
LEUPP SUBSTATION  
LUPTON DIP VAT  
MESA III MINE  
MEXICAN SPRINGS COMMUNITY DUMP  
MONTEZUMA CREEK DRUM  
NANABAH VANDEVER MINE  
NAVAJO - BECLABITO DIP VAT  
NAVAJO - BEGAY INCLINE URAN MINE  
NAVAJO - BLACK MOUNTAIN DIP VAT  
NAVAJO - CANONCITO DIP VAT #1  
NAVAJO - CANYON I URANIUM MINE

NAVAJO - CASAMERO LAKE DIP VAT  
 NAVAJO - COMMUNITY OPEN DUMP  
 NAVAJO - CRYSTAL DIP VAT  
 NAVAJO - DESIDERO URANIUM MINES  
 NAVAJO - ENOS JOHNSON URANIUM  
 MINE  
 NAVAJO - IYANBITO LANDFILL  
 NAVAJO - JIMMY KING #2  
 NAVAJO - KING TUTT #1 URANIUM MINE  
 NAVAJO - NAPI SEEPAGE  
 NAVAJO - PINEDALE DIP VAT  
 NAVAJO - ROCKY FLATS URANIUM MINE  
 NAVAJO - SHEEP SPRING DIP VAT  
 NAVAJO - TENT URANIUM MINE  
 NAVAJO - TONY TSOSIE DIP VAT  
 NAVAJO - TWIN LAKES DIP VAT  
 NAVAJO FLEET MAINTENANCE  
 NAVAJO FOREST PRODUCTS INDUSTRIES  
 NAVAJO MOUNTAIN DIP VAT  
 NAVAJO TRIBAL UTILITY AUTHOR -  
 DENEHOTSO  
 NAVAJO TRIBAL UTILITY AUTHORITY -  
 BMESA  
 NAVAJO-CHAVEZ LEASE URANIUM  
 MINE  
 NAZLINI DIP VAT  
 NEW LANDS DUMP  
 NEWMAN DIP VAT  
 OAK SPRINGS DIP VAT  
 OAK/PINE SPRINGS DIP VAT  
 OLD RED LAKE ROAD DIP VAT

P & M COAL MINE  
**PEABODY COAL CO BLACK MESA  
 MINE SITE**  
<http://www.epa.gov/superfund/sites/arc/sites/reg09/a0900674.htm>  
**PEABODY COAL CO KAYENTA MINE  
 SITE**  
<http://www.epa.gov/superfund/sites/arc/sites/reg09/a0900156.htm>  
 PETE CLAIM NO 7 MINE  
 PETE CLAIM NO 9 MINE  
 PINE SPRINGS DIP VAT  
 PINON DIP VAT  
 PROVERTY TANK DIP VAT  
 PUERCO RIVER SITE  
 QUIVIRA MINES  
 SHIPROCK #1 DIP VAT  
 SOUTH ALAMO DIP VAT  
 ST MICHAELS DIP VAT  
 TEECNOSPOS DIP VAT  
 TOHATCHI - OAKSPRING DIP VAT  
 TOO DINEH INDUSTRIES INC  
 TRANSWESTERN PIPELINE CO -  
 KLAGETOH  
 TRANSWESTERN  
 PIPELINE/COMPRESSIVE STAT  
 TUBA CITY ABANDONED LDFL  
 TWIN LAKES LAGOON  
 UNKNOWN MONTEZUMA CREEK HWY  
 UPPER FRUITLAND DIP VAT  
 WHIPPOORWILL DIP VAT

## **U.S. Judge Orders Overhaul of Indian Trust Fund; Navajo Suit Against Peabody Coal Dismissed**

In December [1999], U.S. District Judge Royce Lamberth ordered an overhaul of a multi-billion dollar federal trust fund for American Indians, ruling that the court would oversee efforts to reverse decades of mismanagement over the next five years. Indians filed a classaction suit against the Interior and Treasury departments in 1996, charging misappropriation of moneys slated for the Individual Indian Money Trusts (IIM). Lamberth said he found it inexcusable that the departments could not account for \$500 million in yearly royalties for exploitation of natural resources on Indian lands that the IIM was responsible for.

Meanwhile, in February the Navajo Nation received an unfavorable decision in a U.S. Claims Court suit against the Interior Department filed in 1993, one of two suits alleging the federal government and Peabody Coal schemed to defraud the tribal government of the full benefits of its coal resources. The other suit, filed against Peabody last September in U.S. District Court in Washington, DC is still pending.

The pending suit seeks \$600 million in damages and names as co-defendants Southern California Edison and the Phoenix-based Salt River Project, both operators of power plants that purchase coal mined by Peabody on Navajo lands.

Under terms of a 1964 lease, the Navajo Nation received less than two percent royalty for its coal. In 1984, the Nation exercised its right under the lease to seek an adjustment of the royalty by the Interior Department, which, after review, decided on a 20 percent hike. The suit charges Peabody secretly and illegally influenced then-Interior Secretary Donald Hodel to reverse the decision. A private meeting was reportedly arranged between Hodel and Stan Hulett, a personal friend who had been privately hired by Peabody. The Navajo did not learn of the meeting until it was revealed in the Claims Court case. The royalty rate was adjusted to 12.5 percent, and the Navajo Nation was forced to forfeit back taxes and back royalties it had been seeking.

In the February decision, Judge Lawrence M. Baskir of the U.S. Court of Claims ruled that while Hodel's actions had betrayed the public trust, federal law did not explicitly require him to act in the best interest of the Navajos.<sup>116</sup>

### **Statement from SRP Annual Report 2000<sup>117</sup>**

From time to time, SRP is involved in litigation and disputes with various Indian tribes on issues concerning regulatory jurisdiction, royalty payments, taxes and water rights, among others (see Navajo Nation Lawsuit previous page). Resolution of these matters may result in increased operating expenses.

### **Navajo Nation Lawsuit<sup>118</sup>**

In June 1999, the Navajo Nation filed a lawsuit in the United States District Court in Washington D.C., naming Peabody Coal Company, Southern California Edison Company, the District, and other defendants, for allegedly causing the United States to breach its fiduciary duty to the Navajo Nation and for violating federal racketeering statutes. The lawsuit arises out of the renegotiations in 1987 of coal royalty and lease agreements to mine coal for the Navajo and Mohave Generating Stations. The suit alleges \$600 million in damages and seeks treble damages along with punitive damages of not less than \$1 billion. The District denies all charges and will vigorously defend itself. On February 29, 2000, the Hopi Tribe filed a motion to intervene in the suit, but the court has not yet ruled on the motion. Because this litigation is in preliminary stages, the District is unable to assess the extent of its potential liability, if any, or the potential impact of the lawsuit to the District's financial position or results of operations.

### **Navajo Relocation**

Peabody Western - Black Mesa and Kayenta Mines, Navajo Reservation (Arizona)

PL 95-531 signed by Nixon in 1974.

PL 104-301 signed by Clinton in 1996 authorizes the relocation of over 14,000 people in Arizona and Nevada.

Approximately over 9,000 Dineh people have been forced from the traditional sacred lands they have occupied for centuries, to make way for the mines. People living in the area are subject to the effects of nearby blasting which shakes their houses and cracks the foundations. Health effects from coal dust and toxic chemicals continue to effect their daily lives and have also killed many of their sheep.

Peabody is also responsible, they say, for the destruction of over 2,400 archaeological and burial sites and for using 61% of the water withdrawn annually from the deep water tables. The pumping of this water, residents claim, is responsible for drying up springs that have furnished water for hundreds of years.

Human rights and environmental organizations internationally have protested the continuation of the Black Mesa and Kayenta mining operations since 1972.<sup>119</sup>

Amnesty International review of case is at <http://www.primenet.com/~staples/amnesty/black1.htm>

## **Navajo Dependence on Mining**

“The Navajo Nation is solely dependant upon jobs, royalties, and tax revenues generated from these mines and enterprises for its survival.” (from Testimony of Melvin F. Bautista, Executive Director of the Division of Natural Resources of the Navajo Nation, Before the United States House of Representatives Subcommittees on Water and Power, and National Parks and Public Lands, September 23, 1997).<sup>120</sup>

## **Apache Water Rights**

Shaun McKinnon, Globe, Apaches strike water-rights deal: To swap CAP supply for ground allotment, Arizona Republic, Oct. 27, 1999

“Adding another key piece to Arizona’s water picture, Globe and the San Carlos Apache Tribe have settled a long-simmering water-rights dispute, state officials said Tuesday.

“Under the deal, Globe will give the tribe the city’s 3,500 acre-foot share of Central Arizona Project water in exchange for the right to pump up to 2,500 acre-feet a year of groundwater from Cutter Basin, along the San Carlos Reservation border in Gila County.

“The city also will earn first dibs on about 1,000 acre-feet of CAP water should the tribe decide to sell or lease it. An acre-foot is about 326,000 gallons, enough to serve an urban family of five for a year.

“In a joint statement, Velasquez W. Sneezy, vice chairman of the San Carlos Tribe, and Globe Mayor David Franquero, said the agreement “marks the dawn of an era of good feeling between the city and the tribe.”

“They credited Gov. Jane Hull with shepherding the negotiations after the two sides hit a snag earlier this year.

“The San Carlos-Globe deal is part of a larger Indian water-rights settlement process that involves the San Carlos Apaches, seven cities, the Salt River Project, the Roosevelt Water Conservation District and the Central Arizona Water Conservation District.

“Interior Secretary Bruce Babbitt announced a partial agreement in late March, but some elements, including the dispute with Globe, remained unsettled.

“Negotiators still must reach terms with the Central Arizona Water Conservation District, which manages the CAP canal. The district wants the cost of delivering water in the San Carlos settlement deducted from what the state owes the federal government for building the 336-mile CAP canal, which carries Colorado River water to Phoenix and Tucson.

“When the agreement is final, the 12,000-member San Carlos tribe will hold the rights to more than 71,000 acre-feet of water from various sources, enough to serve a population of 355,000. Tribal officials have already discussed leasing some of the water to Scottsdale and other thirsty cities.

“The tribe will also gain access to a \$50 million development fund that could help pay for several environmental restoration projects.”<sup>121</sup>

## **Litigation involving SRP**

### **Arizona Consumers Council v. Salt River Project.**

Lawsuit settlement: SRP to expand discounts, develop pricing policy. The Arizona Center for Law in the Public Interest and electricity provider Salt River Project reached a settlement to dismiss a lawsuit filed against the utility on behalf of the Arizona Consumers Council. The lawsuit against SRP regarding rate reductions in 1998 the group believed should have been greater. As part of the settlement, SRP agreed to expand its low-income discount, and to develop rules that apply to a public process for price changes and other issues (Business Journal Phoenix, April 14, 2000).

"Since last June, the Center has been participating in rate proceedings being conducted by Salt River Project under legislation that was passed last year. The purpose of the rate proceedings is to determine appropriate rate levels for SRP if competition is allowed in the provision of generation service to customers in Arizona. Under rules proposed by the Arizona Corporation Commission and the recent legislation, electric companies can compete to provide customers with electric generation service. Transmission and distribution services would continue to be regulated by the Corporation Commission. Theoretically, customers will be able to choose among different electric providers from which they would buy generation service but continue to receive transmission and distribution services from their existing utility provider. The only problem is that none of the companies that want to compete are willing to compete for residential customers. It is the large industrial and commercial customers that have been pushing for deregulation and those are the customers that the electric companies have targeted for competition. The danger is that if the large customers leave the existing companies, residential customers may get stuck with the fixed costs that those large customers will leave behind. Recognizing that the benefits of competition can be elusive, especially for residential customers, the Arizona legislature passed a law last year that requires Salt River Project to reduce rates at the same time SRP implements changes to its rate structure to provide for competition. The Center intervened in those rate proceedings and argued that SRP's proposal to lower rates by 4.5% was not large enough. The Center, representing the Arizona Consumers Council, maintained that rates should be reduced by an additional \$10 million to \$15 million and that the additional reduction should be allocated to the residential customers. On December 7, 1998, the SRP Board of Directors agreed with the Center and reduced rates for residential customers by an additional \$12 million. However, the Board still allowed for the recovery of so-called stranded costs from SRP customers over the Center's objection. Stranded costs are costs associated with expensive plants that the utility may not be able to recover in a competitive market. In SRP's case, most of its

alleged stranded costs are caused by its investment in the Palo Verde Nuclear Generating Station. The Center objected to SRP's recovery of stranded costs on a number of grounds including the fact that there is not yet any competition in Arizona. If there is no competition, then there cannot possibly be any stranded costs. The Center is contemplating legal action as a result of the SRP Board's decision on stranded costs as well as other issues. The Center is also considering an action against the Arizona Corporation Commission regarding the constitutionality of its rules deregulating generation service. The Arizona Constitution requires that the Commission set rates for electric service and that those rates be based on the value of the utility's property committed to providing the service. The Commission's rules violate these provisions." (Arizona Center for Law in the Public Interest, *The Centerline*, Spring 1999, Volume 25, Number 1, <http://www.aclpi.org/spring99.htm>)

**Delbridge v. Salt River Project Agric. Improvement & Power Dist.**, 1 CA-CV 92-0531, Court of Appeals of Arizona, Division One, Department A, 182 Ariz. 46; 893 P.2d 46; 1994 Ariz. App. LEXIS 234; 177 Ariz. Adv. Rep. 56, November 8, 1994, Filed, Petition for Review DENIED on April 25, 1995 by Arizona Supreme Court CV-94-0582-PR.

**Dawavendewa v. Salt River Project Agricultural Improvement & Power Dist.**, 1998 WL 605282 (9th Cir. Sep. 14, 1998). Harold Dawavendewa, a single man, Plaintiff-Appellant, v. Salt River Project Agricultural Improvement and Power District, an Arizona corporation, Defendant-Appellee. No. 97-15803. United States Court of Appeals for the Ninth Circuit. 154 F.3d 1117; 1998 U.S. App. LEXIS 22332; 77 Fair Empl. Prac. Cas. (BNA) 1312; 74 Empl. Prac. Dec. (CCH) P45,500; 98 Cal. Daily Op. Service 7158; 98 Daily Journal DAR 9905. March 11, 1998, Argued and Submitted, San Francisco, California. September 14, 1998, Filed. Harold Dawavendewa, a Native American, alleges that because he is a Hopi and not a Navajo, he was not considered for a position with a private employer operating a facility on the Navajo reservation. He contends that the employer's conduct constitutes unlawful employment discrimination [\*\*2] under Title VII of the Civil Rights Act of 1964. Based on our reading of the Indian Preferences exemption, [\*\*26] and informed by the 1994 Amendment to the ISDA, we conclude that the exemption does not include preferences based on tribal affiliation. If Congress wishes to amend Title VII to accommodate tribal preferences, as it did with respect to the ISDA, it may do so. Because Congress has not yet chosen that course, and because there is no dispute that the Salt River policy constitutes a tribal preference policy, the district court erred in dismissing the complaint. CONCLUSION We conclude that Salt River's conduct as described in the complaint constitutes "national origin" discrimination under Title VII and does not fall within the scope of the Indian Preferences exemption. Accordingly, the district court's Rule 12(b)(6) dismissal was improper, and we reverse. REVERSED AND REMANDED.

*Salt River Project Agric. Improvement & Power Dist. v. Dawavendewa*, 98-1628, SUPREME COURT OF THE UNITED STATES, 526 U.S. 1156; 119 S. Ct. 2043; 144 L. Ed. 2d 211; 1999 U.S. LEXIS 3988; 67 U.S.L.W. 3747, June 7, 1999, Decided.

*Salt River Project Agric. Improvement & Powers Dist. v. Dawavendewa*, 98-1628, SUPREME COURT OF THE UNITED STATES, 528 U.S. 1098; 120 S. Ct. 843; 145 L. Ed. 2d 708; 2000 U.S. LEXIS 475; 68 U.S.L.W. 3432, January 10, 2000, Decided.

"Discrimination based on tribal affiliation violates Title VII. The Ninth Circuit has ruled that a private employer's preference for one Indian tribe over another constitutes unlawful discrimination based on national origin. The preference was not saved by Title VII's Indian preference exemption. The Salt River generating station is less than three miles from the Navajo Reservation in Arizona. Harold Dawavendewa could not get a job there, allegedly because he was a Hopi, and not a Navajo. Since the Hopi tribe was at least at one time recognized as a distinct nation, that constituted national origin discrimination. Title VII provides an exemption for businesses near Indian reservations that give preferential treatment to any

individual because he is an Indian living on or near a reservation. That exemption does not extend to a practice that prefers one tribe over another. The ruling conforms with a 1988 Policy Statement by the EEOC on the subject." (Appellate Decisions Noted, October 1998, <http://www.appellate-counsellor.com/newsletter/9810.htm>)

**Environmental Defense Fund v. EPA (filed 1982) lawsuit over Navajo station sulfur dioxide emissions affecting visibility at Grand Canyon.**

"The Salt River Project's coal burning Navajo Generating Station has been the subject of an intensive effort by environmental groups to reduce smoke stack emissions under Section 169A of the Clean Air Act. Their interest was to protect visibility at Grand Canyon National Park, 60 miles to the north. The issue was decided via intensive sessions between the Salt River Project, the EPA, the Environmental Defense Fund and the Grand Canyon Trust. The resulting negotiated rule saved the utility \$1 billion and reduced emissions by 90%. The use of negotiation is recommended for disputes regarding utilities near other parks." (Public Utilities Fortnightly, April 15, 1993).<sup>122</sup>

**Hendel v. Salt River Project Agric. Improvement & Power Dist.**, 1 CA-CV 97-0329, Court Appeals of Arizona, Division One, Department D, 1998 Ariz. App. LEXIS 125; 274 Ariz. Adv. Rep. 26, 21, 1998, Filed, this decision is subject to further appellate review. motions for reconsideration or petitions for review to the Arizona Supreme Court may be counsel is cautioned to make an independent determination of the status of this case. Designated as a Memorandum Decision per Order Filed January 25, 1999.

**Hislop v. Salt River Project Agric. Improvement & Power Dist.**, 1 CA-CV 98-0232, Court Of Appeals Of Arizona, Division One, Department B, 197 Ariz. 553; 5 P.3d 267; 2000 Ariz. App. LEXIS 64; 320 Ariz. Adv. Rep. 9, May 2, 2000, Filed.

**Hislop v. Salt River Project Agric. Improvement & Power Dist.**, Arizona Supreme Court No. CV-00-0200-PR, Supreme Court Of Arizona, 199 Ariz. 431; 18 P.3d 1230; 2001 Ariz. LEXIS 14, January 23, 2001, Dated, January 23, 2001, Filed.

**Lofgren v. Motorola Inc. et al, (Maricopa County Superior Court).**

"The lawsuits, originally filed in 1993 and 1994, seek compensation for damages allegedly caused by groundwater contamination that began in 1959 and stretched over a 30 year period. One is seeking personal injury compensation for health problems caused by the exposure, namely leukemia, Hodgkin's lymphoma and lupus. The second case is seeking compensation for property damages and the third sought a medical monitoring program, which would pay the cost of cancer detection testing for Scottsdale residents who were exposed to the contamination." (Business Journal Phoenix, Oct 3, 1997).<sup>123</sup>

Three parties in groundwater contamination suit settle out of court. "Two companies and a utility named in a massive groundwater contamination lawsuit have agreed to settle out of court just weeks before a trial begins. Siemens Corp., Beckman Instruments, and the Salt River Project agreed to pay a group of south Scottsdale and Phoenix residents an undisclosed amount. The plaintiffs claim they contracted cancer and other serious diseases from water contaminated with the industrial solvent trichloroethylene, or TCE, a suspected carcinogen. Motorola and the city of Phoenix remain defendants in the lawsuit, which is scheduled for trial June 15. Plumes of the chemical -- used widely for cleaning circuit boards in the 1960s and '70s -- were found near the Phoenix and Scottsdale Motorola semiconductor plants in the 1980s. The Scottsdale plume runs along the city's eastern border north to about McDonald Drive. The settlement was hashed out recently and has not been formalized or brought before the judge, but lawyers hope to work out details before the trial starts. The remaining defendants, Motorola and Phoenix, did not

settle and are set for trial June 15. "From an economic standpoint, it made sense for us to settle," said SRP spokesman Jeff Lane. "The trial is expected to go anywhere from three to six months long, and we felt this was the reasonable thing to do under the circumstances." On the other hand, Lane said, this settlement does not mean SRP believes it is liable for the personal injury claims and its timing is completely coincidental. The case includes 18 people in south Scottsdale. A similar personal injury lawsuit, involving about 60 west Phoenix plaintiffs, is pending." (U.S. Water News Online, June 1998)<sup>124</sup>

Plaintiffs' attorneys in one of the state's most far-reaching water pollution lawsuits have filed to publicly open details of a confidential agreement entered last year by the city of Scottsdale, Motorola Inc. and Siemens Corp. Although the attorneys themselves have a full text of the agreement, which was announced by Scottsdale officials last year in a press release, details have been sealed under a judge's order, and those involved have been prohibited from speaking about it. According to the motion, Scottsdale officials lied in their press announcement about the true nature of the agreement and "should not be allowed to bury that deception under an order of confidentiality." In early October 1996, Motorola and Siemens agreed to pay the city of Scottsdale's defense expenses as well as any potential judgment resulting from *Lofgren v. Motorola Inc. et al*, filed in Maricopa County Superior Court. But so far, no other details about the agreement have been revealed. The motion to publicly reveal details about the agreement comes on the heels of a similar move by the east Valley's Tribune Newspapers, which is pursuing the matter as a public records issue. The medical monitoring case is one of three multimillion-dollar lawsuits facing Motorola, the city of Scottsdale, the city of Phoenix, Salt River Project and others who allegedly took part in distributing tainted water to residents over the course of two decades." (Business Journal Phoenix, Oct 3, 1997).<sup>125</sup>

### **Navajo Nation v. Peabody Coal Company, Southern California Edison Company, Salt River Project, and other defendants (June 1999, US District Court Washington D.C.)**

"The lawsuit arises out of the renegotiations in 1987 of coal royalty and lease agreements to mine coal for the Navajo and Mohave Generating Stations. The suit alleges \$600 million in damages and seeks treble damages along with punitive damages of not less than \$1 billion. The District denies all charges and will vigorously defend itself. On February 29, 2000, the Hopi Tribe filed a motion to intervene in the suit..." (according to Salt River Project website).

For background on the Navajo-Hopi land dispute and how it ties to the Navajo v. Peabody lawsuit over royalties, see:

Conspiracy Theories Still Rage Over Land, by Jerry Kammer, Arizona Republic, Feb. 2, 2000  
<http://www.azcentral.com/news/navahopi/navahopi4.shtml>

Navajo Lawsuits Contend U.S. Government Failed the Tribe in Mining Royalty Deals, by Barry Meier, New York Times, July 18, 1999, <http://college1.nytimes.com/guests/articles/1999/07/18/479790.xml>

See also: Navajo Nation Sues Peabody Coal for \$600 Million, Environmental News Service, June 22, 1999 <http://ens.lycos.com/ens/jun99/1999L-06-22-02.html>

Peabody statement: "On June 18, 1999, the Navajo Nation served our subsidiaries, Peabody Holding Company, Inc., Peabody Coal Company and Peabody Western Coal Company, with a complaint that had been filed in the U.S. District Court for the District of Columbia. Other defendants in the litigation are two customers, one current employee and one former employee. The Navajo Nation has alleged 16 claims, including Civil Racketeer Influenced and Corrupt Organizations Act, or RICO, violations and fraud and tortious interference with contractual relationships. The complaint alleges that the defendants jointly participated in unlawful activity to obtain favorable coal lease amendments. Plaintiff also alleges

that defendants interfered with the fiduciary relationship between the United States and the Navajo Nation. The plaintiff is seeking various remedies including actual damages of at least \$600 million, which could be trebled under the RICO counts, punitive damages of at least \$1 billion, a determination that Peabody Western Coal Company's two coal leases for the Kayenta and Black Mesa mines have terminated due to our breach of these leases and a reformation of the two coal leases to adjust the royalty rate to 20%. All defendants have filed motions to dismiss the complaint. On March 15, 2001, the court denied the Peabody defendants' motions to dismiss. In March 2000, the Hopi Tribe filed a motion to intervene in this lawsuit. The Hopi Tribe has alleged seven claims, including fraud. The Hopi Tribe is seeking various remedies, including unspecified actual and punitive damages, reformation of its coal lease and a termination of the coal lease. On March 15, 2001, the court granted the Hopi Tribe's motion. On April 17, 2001, we filed a motion to dismiss the Hopi complaint. While the outcome of litigation is subject to uncertainties, based on our preliminary evaluation of the issues and the potential impact on us, we believe this matter will be resolved without a material adverse effect on our financial condition or results of operations." (Peabody Energy Corporation, Annual Report, SEC form 10-K405, March 2001).

**Niedner v. Salt River Project Agricultural Improvement & Power District** - 590 P.2d 447 (Ariz. 1979). See Jeffrey R. Parker, State action and employment in the Agricultural Improvement District, *Arizona Law Review*, Spr 1980 22 n1 p157-170.

**Salt River Project Agric. Improvement & Power Dist. v. Apache County**, No. 1 CA-TX 91-002, Court of Appeals of Arizona, Division One, Department T, 171 Ariz. 476; 831 P.2d 852; 1992 Ariz. App. LEXIS 83; 109 Ariz. Adv. Rep. 52, March 26, 1992, March 26, 1992, Filed, Review Granted June 30, 1992.

**Salt River Project Agric. Improvement & Power Dist. v. Apache County**, No. CV-92-0181-PR, Supreme Court of Arizona, 172 Ariz. 337; 837 P.2d 139; 1992 Ariz. LEXIS 64; 121 Ariz. Adv. Rep. 5; 137 P.U.R.4th 223, September 3, 1992, Mandate Issued September 28, 1992.

**Salt River Project Agric. Improvement & Power Dist. V. Westinghouse Elec. Corp.**, No. 2 CA-CV 92-0173, Court of Appeals of Arizona, Division Two, Department B, 176 Ariz. 383; 861 P.2d 668; 1993 Ariz. App. LEXIS 25; 132 Ariz. Adv. Rep. 44; CCH Prod. Liab. Rep. P13,562, February 9, 1993, Review Denied October 19, 1993. \*\* Moeller, V.C.J., and Corcoran, J., of the Supreme Court, recused themselves and did not participate in the determination of this matter.

**Salt River Project Agricultural Improvement & Power District v. United States** - No. 83-2331 (D.C. Cir. May 31, 1985). Railroad rate reasonableness. See James L. Howe III, *Transportation Practitioners Journal*, Summ 1985 52 n4 p535-538.

**Salt River Project Agricultural Improvement & Power District. v. Westinghouse Electric Corp.** 694 P.2d 198 (Ariz. 1984). Products liability. See George O. Krauja, Tort liability in commercial transactions. (case note). *Arizona Law Review*, Summ 1985 27 n3 p777-783.

**Salt River Project v. Industrial Comm'n**, 1 CA-IC 90-122, COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT C, 1992 Ariz. App. LEXIS 323; 129 Ariz. Adv. Rep. 39, December 29, 1992, Filed, As Corrected April 6, 1993. Petition for Review Denied on October 19, 1993 by Arizona Supreme Court CV-93-0164-PR. The Court of Appeals' Opinion shall not be published, pursuant to Rule 111(g), Arizona Rules of the Supreme Court.

**Salt River Project v. Industrial Comm'n**, No. 1 CA-IC 91-0082, Court of Appeals of Arizona, Division One, Department E, 172 Ariz. 477; 837 P.2d 1212; 1992 Ariz. App. LEXIS 249; 122 Ariz. Adv. Rep. 14, September 15, 1992.

**Salt River Project/Bechtel Corp. v. Industrial Comm'n**, 1 CA-IC 92-0196, COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, 179 Ariz. 280; 877 P.2d 1336; 1994 Ariz. App. LEXIS 139; 169 Ariz. Adv. Rep. 20, July 14, 1994, Filed, Petition for Review Denied on March 21, 1995 by Arizona Supreme Court CV 94-0438-PR.

**Salt River Project v. Peabody (filed Feb 12, 2001 in Maricopa County Superior Court).**

Peabody statement: "In May 1997, Salt River Project Agricultural Improvement and Power District, or Salt River, acting for all owners of the Navajo Generating Station, exercised their contractual option to review certain cumulative cost changes during a five-year period from 1992 to 1996. Peabody Western sells approximately 7 to 8 million tons of coal per year to the owners of the Navajo Generation Station under a long-term contract. In July 1999, Salt River notified Peabody Western that it believed the owners were entitled to a price decrease of \$1.92 per ton as a result of the review. Salt River also claimed entitlement to a retroactive price adjustment to January 1997 and that an overbilling of \$50.5 million had occurred during the same five-year period. In October 1999, Peabody Western notified Salt River that it believed it was entitled to a \$2.00 per ton price increase as a result of the review. The parties were unable to settle the dispute and Peabody Western filed a demand for arbitration in September 2000. The arbitration panel has been selected and the hearing is scheduled to start on October 29, 2001. On February 12, 2001 in a related action, Salt River, again acting for all owners of the Navajo Generating Station, filed a lawsuit against Peabody Western in the Superior Court in Maricopa County in Arizona. This lawsuit seeks to compel arbitration of issues that Peabody Western does not believe are subject to arbitration, namely, (1) the effective date of any price change resulting from the resolution of the price review arbitration discussed above and (2) the validity of Salt River's \$50.5 million claim for alleged overcharges by Peabody Western for the period from 1992 through 1996 (the five-year period that was the subject of the price review). If the court declines to compel arbitration of these issues, the lawsuit alternatively requests that the court find in favor of Salt River on these issues. We have removed this matter to the U.S. District Court for the District of Arizona." (Peabody Energy Corporation, Annual Report, SEC form 10-K405, March 2001).

**Salt River project v. Peabody (filed 1996).**

Peabody statement: "Salt River and the other owners of the Navajo Generating Station filed a lawsuit on September 27, 1996 in the Superior Court of Maricopa County in Arizona seeking a declaratory judgment that certain costs relating to final reclamation, environmental monitoring work and mine decommissioning and costs primarily relating to retiree health care benefits are not recoverable by our subsidiary, Peabody Western Coal Company, under the terms of a coal supply agreement dated February 18, 1977. The contract expires in 2011. Peabody Western filed a motion to compel arbitration of these claims, which was granted in part by the trial court. Specifically, the trial court ruled that the mine decommissioning costs were subject to arbitration but that the retiree health care costs were not subject to arbitration. Peabody Western appealed and the Arizona Court of Appeals affirmed the trial court's order. Peabody Western filed a petition for review with the Arizona Supreme Court. That petition was denied on September 24, 1998. As a result, Peabody Western, Salt River and the other owners of the Navajo Generating Station will arbitrate the mine decommissioning costs issue and will litigate the retiree health care costs issue." (Peabody Energy Corporation, Annual Report, SEC form 10-K405, March 2001).

Peabody statement: " In response to a demand for arbitration by one of our subsidiaries, Peabody Western, Southern California Edison and the other owners of the Mohave Generating Station filed a lawsuit on June 20, 1996 in the Superior Court of Maricopa County, Arizona. The lawsuit sought a declaratory judgment that mine decommissioning costs and retiree health care costs are not recoverable by Peabody Western under the terms of a coal supply agreement dated May 26, 1976. The contract

expires in 2005. Peabody Western filed a motion to compel arbitration which was granted by the trial court. Southern California Edison appealed this order to the Arizona Court of Appeals, which denied its appeal. Southern California Edison then appealed the order to the Arizona Supreme Court which remanded the case to the Arizona Court of Appeals and ordered the appellate court to determine whether the trial court was correct in determining that Peabody Western's claims are arbitrable. The Arizona Court of Appeals ruled that neither mine decommissioning costs nor retiree health care costs are to be arbitrated and that both issues should be resolved in litigation. The matter has been remanded back to the Superior Court of Maricopa County, Arizona, where a trial has been set for September 11, 2001. Peabody Western answered the complaint and asserted counterclaims. The court then permitted Southern California Edison to amend its complaint to add a claim of overcharges of at least \$19.2 million by Peabody Western. The court also ruled that the claim for the overcharges and for damages resulting from the September 2001 trial would be tried separately, following the resolution of the September 2001 trial." (Peabody Energy Corporation, Annual Report, SEC form 10-K405, March 2001).

**Salt River Valley Water Users' Ass'n v. Superior Court**, 1 CA-SA 93-0172, COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT D, 178 Ariz. 70; 870 P.2d 1166; 1993 Ariz. App. LEXIS 235; 150 Ariz. Adv. Rep. 24, October 21, 1993, Filed, Petition for Review Denied on April 19, 1994 by Arizona Supreme Court CV-93-0441-PR.

**Sierra Club, Plaintiff, v. Public Service Company of Colorado, Inc., Salt River Project Agricultural Improvement and Power District, and Pacificorp, Defendants**. Civil Action No. 93-B-1749. United States District Court for the District of Colorado. 894 F. Supp. 1455; 1995 U.S. Dist. LEXIS 10680; 41 ERC (BNA) 1823; 25 ELR 21461. July 20, 1995, Decided. July 20, 1995, FILED.

Pursuant to § 7604 of the Clean Air Act, 42 U.S.C. § 7401 et. seq., plaintiff Sierra Club brings a citizen suit for civil penalties and injunctive relief against defendants Public Service Company of Colorado (PSC), Salt River Project Agricultural Improvement and Power District (Salt River), and Pacificorp (collectively defendants). The defendants are owners/operators of Hayden Station which is a fossil fuel-fired steam generating facility located near Hayden, Colorado. Federal question jurisdiction also exists as this action addresses violations under the Colorado state implementation plan (SIP), the federally delegated air pollution program approved by the U.S. Environmental Protection Agency (EPA) pursuant to 42 U.S.C. § 7410. Sierra Club has complied with the notice of intent to sue provisions of 42 U.S.C. § 7604(b)(1)(A). ORDERED that judgment of liability is entered in favor of the Plaintiff, Sierra Club, and against the defendants, Public Service Company of Colorado, Inc., Salt River Project Agricultural Improvement and Power District, and Pacificorp, as to plaintiff's first claim for relief alleging that defendants emitted pollutants in violation of Colorado air pollution regulations, second claim for relief alleging defendants emitted pollutants [\*\*26] in violation of permit limitations, and third claim for relief alleging that defendants have failed to operate Hayden Station consistent with good air pollution control practices.

**Sierra Club, Plaintiff, v. Tri-State Generation And Transmission Association, Inc., Public Service Company Of Colorado, Inc., Salt River Project Agricultural Improvement And Power District, Pacificorp, and Platte River Power Authority, Defendants**. Civil Action No. 96 N 2368. United States District Court For The District Of Colorado. 173 F.R.D. 275; 1997 U.S. Dist. LEXIS 20484. March 20, 1997, Decided. March 20, 1997, Filed. This is a citizen suit under the Clean Air Act, 42 U.S.C.A. §§ 7401-7671q (West 1995 [\*287] & Supp. 1996), and the Colorado Air Quality Control Act, Colo. Rev. Stat. §§ 25-7-101 to 25-7-1008 (1989 & Supp. 1996). ORDERED that defendants' motion for reconsideration is DENIED.

**Sierra Club, Plaintiff, v. Tri-State Generation And Transmission Association, Inc., Public Service Company Of Colorado, Inc., Salt River Project Agricultural Improvement And Power District,**

**Pacificorp, and Platte River Power Authority, Defendants.** Civil Action No. 96 N 2368. United States District Court For The District Of Colorado. 173 F.R.D. 275; 1997 U.S. Dist. LEXIS 2464. February 6, 1997, Decided. February 6, 1997, Filed. In paragraphs twenty-two through twenty-six of its complaint, plaintiff alleges that pollutants of the type allegedly emitted from the Craig Station cause various physical impairments and damage the environment in a variety of ways. (Compl. PP 22-26.) Defendants contend that the allegations should be stricken as immaterial and scandalous. (Mot. to Strike at 7-9.) Contrary to defendants' argument, I find the allegations material as they bear on whether the purposes behind the environmental laws and regulations at [\*\*32] issue are applicable here. I further find that the allegations do not go into unnecessary detail so as to warrant striking them as scandalous. See Nault's Auto. Sales, 148 F.R.D. at 30. Defendants' motion to strike paragraphs twenty-two through twenty-six is denied. Conclusion. Based on the foregoing, it is therefore ORDERED as follows: 1. Defendants' motion to dismiss or stay is DENIED. 2. Defendants' motion to strike is DENIED.

**Sierra Club and Grand Canyon Trust v. Mojave plant owners** (filed Feb 1998 in US district court in Las Vegas) over sulfur dioxide emissions.

October 1999 settlement "includes installation of smokestack scrubbers, a filter system and new burners for the plant's boilers... Improvements at the plant are designed to cut sulfur-dioxide emissions by at least 85 percent and to reduce nitrogen oxides and soot. The project could cost \$300 million and is to be finished by April 1, 2006."<sup>126</sup>

"The proposed Oct. 6 consent decree filed in U.S. district court in Las Vegas settles the February 1998 suit in which Grand Canyon Trust, the Sierra Club and the National Parks Association alleged that the plant's emissions violate the Clean Air Act. The agreement was reached "a lot faster than a lawsuit would probably have progressed," resulting in cleanup three years earlier than the owners' original proposal, says Rob Smith, the Sierra Club's southwest staff director in Phoenix. Coincidentally, on Oct. 5, the Salt River Project announced completion of the \$420-million installation of wet scrubbers at the 2,250-Mw Navajo Generating Station in Page, Ariz. A key component of the Mohave agreement is installation of dry scrubbers at each of the plant's two 790-Mw units. The scrubbers must cut the plant's 40,000 tons of annual sulfur dioxide emissions, which are suspected of contributing to haze at the Grand Canyon, by at least 85%. A baghouse will reduce opacity from particle emissions to 20%, and new burners for the plant's two boilers will reduce nitrogen oxide emissions, which also are suspected of adding to Grand Canyon haze. Smith says that the environmental groups originally sought installation of wet scrubbers, like those at the Navajo plant, but the owner demonstrated that lower-cost dry scrubbers would "achieve close to the same amount of pollution control." Dry scrubbers will offer some environmental benefits, using less water, reducing an unsightly water vapor plume and requiring fewer truck trips to remove waste, says Nader Mansour, manager of environmental regulation for Southern California Edison Co., Mohave's Rosemead, Calif., majority owner." (*ENR*, October 18, 1999).

See also March 2, 1998 *High Country News* article.<sup>127</sup>

**Smith et al v. Salt River Project.** Nichet Smith and Renaldo Fowler, Plaintiffs-Appellants, v. Salt River Project Agricultural Improvement And Power District . 95-16951. United States Court Of Appeals For The Ninth Circuit. 109 F.3d 586; 1997 U.S. App. LEXIS 5421; 97 Cal. Daily Op. Service 2091; 97 Daily Journal DAR 3858. November 5, 1996, Argued, Submitted, San Francisco, California. March 24, 1997, Filed. Nichet Smith and Renaldo Fowler ("Appellants") are African-Americans who reside within the boundaries of the Salt River Project Agricultural Improvement and Power District ("District") but do not own real property within the District. Appellants claim that the criterion of land ownership for eligibility to vote in District elections violates Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 (" § 2"), because only forty percent of African-American heads-of-household within the District own homes, compared with sixty percent of white heads-of-household. The district court held that the District is not a

political subdivision within the scope of § 2 and [\*\*2] that, even if § 2 does apply, Appellants failed to demonstrate that the District's voting system violates § 2. We have jurisdiction under 28 U.S.C. § 1291. While we reject portions of the district court's decision, we affirm its judgment that Appellants have not proved their § 2 claim against the District.

**Stulce v. Salt River Project Agric. Improvement & Power Dist.**, 1 CA-CV 99-0024, Court Of Appeals Of Arizona, Division One, Department D, 197 Ariz. 87; 3 P.3d 1007; 1999 Ariz. App. LEXIS 189; 307 Ariz. Adv. Rep. 6, October 28, 1999, Filed, this decision is subject to further appellate review. Motions for reconsideration or petitions for review to the Arizona Supreme Court may be pending. Counsel is cautioned to make an independent determination of the status of this case.

**Zunis** are pursuing a lawsuit in state court in Santa Fe challenging the New Mexico Mining Commission's approval of Fence Lake mine.

## Law Review Articles

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<sup>7</sup> SRP website <http://www.srpnet.com/financial/ar/notes.asp> accessed August 16, 2001.

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<sup>20</sup> SRP website <http://www.srpnet.com/financial/ar/notes.asp> accessed August 16, 2001.

<sup>21</sup> SRP website <http://www.srpnet.com/financial/ar/notes.asp> accessed August 16, 2001.

<sup>22</sup> Mesa Arizona Tribune, August 22, 2001.

<sup>23</sup> SRP websites accessed August 16, 2001:

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<sup>24</sup> SRP website <http://www.srpnet.com/financial/ar/notes.asp> accessed August 16, 2001.

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<sup>33</sup> New Century Energies Inc, SEC Form 10-K405, 12/31/99 <http://www.secinfo.com/dS9Jj.59w.htm> and Public Service Company of Arizona, SEC Form 10K, Dec 31, 1996 <http://www.sec.gov/Archives/edgar/data/81018/0000912057-97-006728.txt>

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