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REFER TO FILE NO. 848

October 15, 2014

Chairman and Members of the Commission  
of the Arizona Power Authority and  
Michael Gazda, Acting Administrator  
1810 West Adams Street  
Phoenix, Arizona 85007

Re: Avra Valley Irrigation and Drainage District Under §30-125(a) Serves  
Irrigated Agriculture.

Dear Chairman, Members of the Commission and Mr. Gazda:

Our office is special counsel to the AVRA Valley Irrigation and Drainage District. The Avra Valley Irrigation and Drainage District (AVIDD) is an irrigation district organized under the laws of the State of Arizona under the provisions of the Arizona Revised Statutes concerning irrigation districts and with the status of a political subdivision as provided by the Arizona Constitution. It is a current APA contractor for a small amount of Hoover. It needs more to meet farmer irrigation power needs.

AVIDD is completely devoted in its purpose and operation to meeting its member electric needs for power and energy to irrigation pumps used to withdraw, and apply groundwater for irrigated agriculture within the AVIDD.

AVIDD has been recognized in the earlier 1987 marketing of Hoover as the type of irrigation District to be benefited by an allocation of Hoover as compared to Districts which no longer serve predominately irrigation or irrigated agriculture but which continue to claim an allocation under Arizona Revised Statutes §30-125(a).

Consultants for the Commission have been asked to inquire of the ADWR for their records on each current and prospective district concerning the use of water for irrigation and commercial agriculture. Commissioners should take into account the records of the ADWR. Otherwise the Commission will have ignored the one authority created by the State to record the water uses in the three main counties in Arizona, and its decisions on marketing may be inherently flawed by not consulting the ADWR records.

Absent taking these steps the Commission is effectively blinding itself in making Hoover allocation decisions based on statistics that may be illusory.

The power and energy demand of the District is being calculated and will be relatively small in comparison to the total amount of Hoover power and energy available to the APA for marketing under schedules a and b of the marketing program.

It would be unwise, improper and a strained construction and interpretation of the Arizona Revised Statute should the Commission, in the exercise of its authority to market Hoover power and energy Schedules A and B, allocate and contract Hoover A and B power to Districts without regard to the amount of irrigation and irrigated agriculture to which District-applicants devote their electrical resources.

The purpose and intent evidenced by the legislative history of A.R.S. 30-125(a) indicates Hoover power and energy was not intended to benefit hobby farmers, lake-owners, recreation projects, commercial enterprises and residential electric consumers. While reading earlier marketing decisions and the legislative history (which is in the library of the APA and the history otherwise available for the education of the Commission) it indicates that Districts devoted to irrigation and commercial agriculture fought a long and lengthy battle to secure a sufficient allocation priority for Hoover power and energy for those uses distinguished from the power and energy uses of regulated utilities and other entities whose primary use of power and energy was not devoted to irrigation.

On behalf of AVIDD, we urge the Commission in the remarketing of Hoover to take a fresh look at applicant-Districts whose primary purpose is to furnish members their electricity need for irrigation and irrigated agriculture purposes as distinguished from those whose primary purpose has transitioned into other purposes.

We would point out that in 2017, upon the expiration of the current contracts, no existing contractors have any type of right, title, or other claim, either equitable or legal, to a mandatory reallocation of any amounts Hoover A and B. Each marketing cycle is a new beginning when the State of Arizona, acting through the APA, makes a decision on marketing a scarce resource—Hoover power and energy. Applicants must qualify anew. AVIDD clearly qualifies.

To further the interest and the intent of the legislative history of Title 30, Section 125 (a) concerning the marketing of Hoover Schedule A and B, the amount of an allocation to an entity for 2017 is vested solely in the discretion of the Commission acting on behalf of the Authority and the State of Arizona having a regard for that historic interest and intent.

The AVIDD electric needs under 125 (a), the calculation of which will subsequently be presented to the Authority, are slight and small. The District has approximately 12 more irrigation pumps that need to be served and it will apply for an increased allocation to be contracted. The soon to be requested allocation can be easily determined and made for the benefit of irrigation and agricultural needs of the AVIDD and its land owners.

Based on the familiarity of this office and the undersigned since 1966 (and prior thereto) with the intent and purpose of the statutes governing the marketing by the Authority of Hoover power and energy, it would be a tragedy and betrayal of the original trust intended by the drafters of ARS 30-125 and the legislature that adopted it for the Commission in its

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remarketing to not focus allocations primarily on the irrigation and agricultural needs of Districts applying for Hoover Schedule A and B.

We would be delighted to meet with the Commission and its Staff and consultants to answer questions.

Very truly yours,

CURTIS, GOODWIN, SULLIVAN,  
UDALL & SCHWAB, P.L.C.

By 

Michael A. Curtis, Special Counsel to  
Avra Valley Irrigation & Drainage District

Cc: AVIDD Management and Board of Directors