

**Kenny J. Evans**  
**Mayor**  
**Town of Payson, Arizona**  
**Testimony before the House Subcommittee on Water and Power**  
**Committee on Natural Resources**  
**on**  
**H.R. 489**  
**A Bill to Clarify the Jurisdiction of the Secretary of the Interior with Respect to the C.C.**  
**Cragin Dam and Reservoir, and for Other Purposes.**

**May 12, 2011**

Chairman McClintock, Ranking Member Napolitano and Members of the Subcommittee, thank you for the opportunity to submit testimony in support of H.R. 489, a bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir.

My name is Kenny J. Evans; I'm an old farm boy who has had the wonderful privilege of growing up in the shadow of the Rocky Mountains. I am currently the Mayor of the beautiful mountain community of Payson, Arizona. I also serve as President of the Northern Arizona Municipal Water Users Association and on the Executive Committee of the Arizona League of Cities and Towns. I am the immediate past President of the Arizona Farm Bureau where I served as state President or Vice-President for over 27 years.

Over the past 40 plus years I have been privileged to bring three generations of Boy Scouts to camp and fish at Blue Ridge Reservoir (now CC Cragin). I have a great love for Blue Ridge and am intimately aware of its history and management. I am also keenly aware of the damage that the current bureaucratic turf battle is causing. What H.R. 489 does not do is relieve either the Bureau or SRP from compliance with all requirements of federal law.

Payson is an island in the middle of National Forests and National Monuments. From the deck of my home I can see four National Forests, two National Monuments and two National Wilderness Areas. The Town of Payson truly understands the complexity of working with Federal Agencies on a daily basis. After much study, we fully support H.R. 489 which will clarify that since the Project is now being operated as a component of the Salt River Federal Reclamation Project (SRP), the Bureau of Reclamation (Bureau) is responsible for approval of all operation, maintenance and repair activities just like more than a dozen other reservoirs and dams and other federal reclamation projects in Arizona, including the other Salt River Project facilities located on lands within the boundaries of the other National Forests.

**H.R. 489 only applies** to the C.C. Cragin Project, which is located within the Coconino and Tonto National Forests in northern Arizona approximately 25 miles north of my community. The C.C. Cragin Project consists of a number of facilities including a 147-foot high dam, 15,000 acre-foot reservoir, diversion tunnel and pump shaft, pumping plant, priming reservoir, a 10 mile long pipeline, electrical transmission line, and small generating plant which supplies power to the Project's pumping plant. Originally known as the Blue Ridge Project, the dam, reservoir, and associated facilities were constructed by Phelps Dodge in the 1960's as part of a water exchange with SRP. In the last ten years, Phelps Dodge found that it no longer needed the Blue Ridge Project for water exchange and pursuant to the terms of their agreement, Phelps Dodge transferred ownership of all of the Blue Ridge Project facilities to SRP.

Enter the small rural mountain Town of Payson. Payson sits at the base of the Mogollon Rim, a 200 mile long escarpment that bisects Arizona west to east and is home to the largest Ponderosa Forest in the country. Currently, all domestic water for the Town and surrounding communities comes from groundwater. Through the years Payson has become the most water conserving community in the State using less than 80 gallons of water per capita per day. However, severe drought and slow but steady growth have stressed future assured water supplies that were based on groundwater alone.

In 2004, with support from all participants, including the U.S. Bureau of Reclamation, language was included as part of the Gila River Indian Community Water Rights settlement in Section 213(i) of the Arizona Water Settlements Act, Public Law 108-451, 118 Stat. 3478, 3532, authorizing title transfer of the Blue Ridge Project from SRP to the Bureau and renaming it C.C. Cragin. Up to 3,500 acre feet per year were to be made available to Payson and surrounding communities with the facilities operated and managed by SRP pursuant to its September 6, 1917 contract with the Bureau of Reclamation. Subsequently, SRP officially transferred title to the C.C. Cragin Dam and Reservoir together with all of its associated facilities, including 77 acres of fee land to the Bureau and concluded the surface water right title transfer and agreement with the Town of Payson. In accordance with the 1917 contract with the Bureau and as directed by Section 213 (i)(5) of the Arizona Water Settlement Act, SRP began operating and maintaining the C.C. Cragin Project.

As part of its maintenance efforts, SRP identified numerous serious leaks present in the existing pipeline needing immediate repair. Not only is the pipeline's integrity important to the general operation of C.C. Cragin Project and SRP's water supply for the Phoenix metropolitan area, but it also has special significance to the Town of Payson and neighboring communities in Northern Gila County who will rely heavily on the Project to supply municipal drinking water in the future. As a part of this effort, the Town of Payson received an allocation of \$10.6 million from the American Recovery and Reinvestment Act (ARRA) stimulus money to assist in paying for the repairs to the pipeline and extending the pipeline and other municipal water-related improvements needed to make the water available to residents.

Once SRP began working with the Bureau on repairs of the C.C. Cragin Project, it became evident that the Bureau (U.S. Department of Interior [Bureau of Reclamation]) and the Forest Service (U.S. Department of Agriculture [USDA - FS]) disagreed as to who had responsibility for approving the requested operation, maintenance and repair functions associated with this Reclamation Project. Please note that this had nothing to do with compliance with State and Federal rules, laws and regulations. It had everything to do with who gave the approval to proceed (Bureau or USDA -FS). The Forest Service asserted that the Bureau needed to obtain a special use permit from them prior to Project operation by SRP and that all maintenance and repairs needed prior approval by them. The Bureau and SRP maintain that under the terms of the Arizona Water Settlements Act, the C.C. Cragin Project is just like all of the other Salt River Federal Reclamation Project facilities located on Forest Service land. On those facilities, jurisdiction over approvals of work plans, maintenance, repairs, environmental compliance, and other permitting associated with Project operation and maintenance belongs to the Bureau, while jurisdiction over recreation, fire suppression, etc. lies with the Forest Service. This approach is consistent with Reclamation Projects across the western United States pursuant to a 1987 Memorandum of Understanding between the Departments of Agriculture and Interior.

For the past five years SRP and the Bureau have unsuccessfully attempted to resolve this jurisdictional dispute with the Forest Service. The Forest Service has insisted on having ultimate

approval authority for the Project even though these facilities are components of the Salt River Federal Reclamation Project. Meanwhile, the resulting bureaucratic wrangling over approval requirements between the two Departments has delayed and created uncertainty in planning much needed repairs to the Cragin facilities, increased repair costs, and has placed a portion of the Town of Payson's \$10.6 million stimulus grant at risk. The bill before you, H.R. 489, clarifies the jurisdiction over the C.C. Cragin Project. It is consistent: (1) with the 1987 Memorandum of Understanding between the Departments of Agriculture and Interior; (2) with Section 213(i) of the Arizona Water Settlements Act, Public Law 108-451, 118 Stat. 3478, 3532; (3) with the September 6, 1917 contract with the Bureau of Reclamation pursuant to the 1902 Reclamation Act; and, (4) with the process used with other Reclamation projects located on Forest Service lands within the State of Arizona and throughout the west.

The bill before you, H.R. 489, would resolve this jurisdiction conflict by withdrawing the approximately 512 acres that comprise the Cragin Project for Bureau of Reclamation purposes. Under this arrangement, the underlying lands would remain part of the National Forest, while clarifying that the Secretary of Interior has exclusive jurisdiction to manage the Cragin Project on these lands in accordance with the terms of section 213(i) of the Arizona Water Settlements Act. This change will make the administrative structure of the Cragin Project consistent with the six additional dams and reservoirs owned by the Bureau and operated by SRP within the Tonto National Forest.

In managing the Cragin Project, the Secretary of Interior and SRP are required to ensure the compliance of their activities with all applicable federal laws, including regulations. The Secretary of Interior is authorized to enter into a contract with the Secretary of Agriculture to undertake the management of recreation, wild land fire activities, public conduct and law enforcement, cultural and other resources, and any other appropriate management activity. The Forest Service requested several changes to the original language on this issue to further clarifying their management activities, as well as several other technical changes to other portions of the bill language. These changes are incorporated into H.R. 489 and fully supported by the Town of Payson.

The Town of Payson's ARRA grant will be at risk if there are continuing delays. I sincerely ask that you approve H.R. 489 so that this much needed project can proceed under the Bureau of Reclamation's oversight and in compliance with all applicable laws, rules and regulations.

Chairman McClintock, Ranking Member Napolitano and Members of the Subcommittee,, thank you once again for the opportunity to testify before you today. I would be willing to answer any questions you might have.

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Kenny J. Evans  
Mayor  
Town of Payson,  
Arizona