

ATTACHMENT NO. 5

EXHIBIT 11.3 (revised)
ZUNI TRIBE WAIVER AND RELEASE OF CLAIMS
AGAINST THE UNITED STATES

1. Except as provided in paragraphs 2 and 3, the Zuni Indian Tribe on behalf of itself and its members (collectively "Zuni Tribe") in consideration of the benefits realized under the Zuni Indian Tribe Water Rights Settlement Agreement in the Little Colorado River Basin, dated June 7, 2002 ("Settlement Agreement"), and in accordance with the commitments under paragraph 11.3 of the Settlement Agreement, and pursuant to the authorization granted in section 7 of the Zuni Indian Tribe Water Rights Settlement Act of 2003 ("the Act"), hereby waives and releases claims against the United States, including any agencies, officials, or employees thereof, for:

- A. All past, present and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands (as those Lands are defined in the Settlement Agreement), from time immemorial through the Enforcement Date (as the Enforcement Date is defined in the Settlement Agreement) and any time thereafter;
- B. All past and present claims for injuries to water rights (including injuries to water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands, from time immemorial through the Enforcement Date;
- C. All past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the Enforcement Date and any time thereafter, for lands outside of Zuni Lands but located within the LCR basin (as that basin is defined in the Settlement Agreement), based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;
- D. All past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the LCR basin in Arizona from time immemorial through the Enforcement Date; and
- E. All claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of this Settlement Agreement or the Act.

2. Notwithstanding the execution by the Tribe of this Waiver and Release of Claims, the Zuni Tribe shall retain the right to assert, as provided in subparagraph 11.4.A and paragraph 11.6 of the Settlement Agreement, the following claims:

- A. Claims for breach or enforcement of the terms of this Settlement Agreement or of rights recognized in this Settlement Agreement, or in the Act, including claims for future injuries to such rights;
 - B. Except as provided in subparagraph 1.C, claims for water rights, including injuries to those water rights, for lands acquired by or on behalf of the Zuni Tribe after the Enforcement Date, subject to the terms of the Settlement Agreement, including but not limited to subparagraph 4.2.D and paragraph 5.6 of the Settlement Agreement; and
 - C. Claims for groundwater rights and injuries to surface water, groundwater and water quality as provided in Article 5 of the Settlement Agreement.
3. Nothing in this Waiver and Release of Claims affects the Zuni Tribe's ability to make any claims of water rights or injuries to water rights or water quality (including water rights in groundwater, surface water, and effluent) against any other Indian tribe, band or community or against the United States on behalf of any such tribe, band or community.
4. For purposes of this Waiver and Release of Claims, a claim or cause of action accrues when any party knows or reasonably should know that it has been damaged, unless another statutory standard applies.
5. Nothing in this Waiver and Release of Claims prevents the Zuni Tribe from participating with other entities in further activities to augment the water supply available to the LCR basin.
6. The benefits realized by the Tribe and its members under the Settlement Agreement, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for:
 - A. Water rights under federal, state, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the Enforcement Date and any time thereafter; and
 - B. Injuries to water rights under federal, state and other laws (including claims for injuries to water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the Enforcement Date.
7. This Waiver and Release of Claims becomes effective and enforceable on the Enforcement Date.

DATED THIS 8th DAY OF July, 2004.

THE ZUNI INDIAN TRIBE

By: 