

1 BEFORE THE
2 ARIZONA NAVIGABLE STREAM ADJUDICATION COMMISSION

3
4 IN THE MATTER OF THE NAVIGABILITY)
OF THE VERDE RIVER FROM ITS) NO. 04-009-NAV
5 HEADWATERS AT SULLIVAN LAKE TO)
THE CONFLUENCE WITH THE SALT) ADMINISTRATIVE
6 RIVER, YAVAPAI, GILA AND MARICOPA) HEARING
COUNTIES, ARIZONA.)
7 _____)

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1 Thank you, Mr. Fuller, if you'll step
2 down for a moment or a while. Ms. Hernbrode, do we
3 have another witness?

4 MS. HERNBRODE: Mr. Slade will be
5 presenting our next witness, Mr. Chairman.

6 (A brief recess was taken.)

7 CHAIRMAN NOBLE: Ed, will you put your
8 name on the record and the witness?

9 MR. SLADE: Sure. My name is Edwin
10 Slade. I'm with the Attorney General's Office,
11 representing the State Land Department. Good morning,
12 Commissioners.

13 COMMISSIONER HORTON: Good morning.

14
15 RICHARD LYNCH,
16 called as a witness on behalf of the State Land
17 Department, was examined and testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. SLADE:

21 Q. And, Mr. Lynch, will you introduce yourself,
22 please?

23 A. Yeah. My name is Richard Lynch, and I'm the
24 owner of Verde Adventures in Clarkdale, Arizona.

25 Q. And what are you here to testify about today?

1 A. To the navigability of the Verde River.

2 Q. And thanks for making the trip down. Did you
3 come down this morning?

4 A. Yes, I did.

5 Q. And did you hit any traffic?

6 A. Oh, yeah.

7 Q. And how long did it take you?

8 A. It wasn't too bad. I mean I was pretty
9 impressed how quickly everything moved, but, you know,
10 coming from a little place into a big place with a lot
11 of traffic is exciting.

12 Q. You came from Camp Verde?

13 A. No, Clarkdale.

14 Q. Clarkdale.

15 And how long have you been in Arizona?

16 A. 22 years.

17 Q. And where did you grow up?

18 A. Kansas City, Missouri.

19 Q. And what brought you to the Verde Valley?

20 A. To the Verde Valley. Epoch, epoch winters.
21 Great place to winter. Lived in Alaska before I came
22 down here and spent one winter here and went, oh, my
23 God, I've got to move here.

24 Q. And what are you doing up at the Verde Valley
25 today?

1 A. Today?

2 Q. Yes.

3 A. We run a river operation on the Verde River.

4 Q. Can you talk about that operation a little
5 bit?

6 A. Sure. We started this back in 2007, and
7 we're running different stretches of the Verde River
8 all the way from Clarkdale, Arizona up by Sycamore
9 Canyon all the way down through Camp Verde to Beasley
10 Flats.

11 Those are areas that we're commercially
12 permitted with with the Forest Service and the Town of
13 Clarkdale and Arizona State Parks, and we run these
14 trips. Primarily it's going to be a March through the
15 end of October operation. Once November hits, cold
16 weather comes in, people don't think about water in the
17 desert at that time, although it's a great time to go
18 boating.

19 Q. How many people a year are you commercially
20 boating?

21 A. We're doing anywhere from -- you know, it
22 depends on the season, but we're averaging somewhere
23 between five to 6,000 people a year on the Verde River.

24 Q. And those are boaters that you're leading as
25 a guide?

1 A. A little bit of everything. Some of them are
2 guided trips. The majority of them are guided trips.
3 We also have rentals we provide people with, you know,
4 the boats, as well as tubing. We do tubing in the
5 summertime too. That's a May through September
6 operation.

7 Q. So what number would you say you're guiding
8 down the river?

9 A. Oh, the guiding portion of it would probably
10 be somewhere in the neighborhood of 80 percent of the
11 business is going to be the guided trips. The rest,
12 really, the 20 percent, would be rentals and tubing.

13 Q. And how many people do you have working for
14 you?

15 A. Summertime we'll be somewhere in the
16 neighborhood of 18 to 25. It depends on our needs, the
17 day, conditions.

18 Q. What time of year are your employees employed
19 with you? All year, part of the year?

20 A. It's seasonal. You know, we have like one
21 person that's on staff right now that's helping answer
22 phones, myself. But once -- we really don't do a whole
23 heck of a lot until towards the end of February, first
24 of March; and then through October, early November is
25 when it all starts winding down.

1 Q. How much are people paying for these trips?

2 A. Trips, the guided trips are anywhere from \$65
3 to \$87 for guided trips.

4 Q. And where are they going on the Verde River?

5 A. Up in Clarkdale we have a new river access
6 point that we just put in this year. The Town of
7 Clarkdale is now leasing land that Freeport McMoRan
8 actually owns. They've got an agreement. And that
9 goes -- it's called Lower TAPCO. So we go from Lower
10 TAPCO downstream about 3 miles to Tuzigoot, which is
11 actually on the Arizona State Park land right there,
12 that stretch of the river.

13 Then in the middle Verde right there in
14 Cottonwood, we put on at Black Canyon, another Forest
15 Service access point, and we float to the confluence of
16 the Verde River in Oak Creek, where there's a vineyard,
17 Alcantara Vineyard. The trip is called Water to Wine.
18 And if anybody hasn't done it, believe me, you'd love
19 it. Water and wine, classic trip; port famous too.

20 And then down at Camp Verde we go from White
21 Bridge to Beasley Flats. We have about a 10-mile
22 stretch of river that we do down there.

23 Q. And how long have you been running this
24 commercial operation?

25 A. Going into the eighth year.

1 Q. Is it successful, or how is business?

2 A. It has its -- it got weird when the economy
3 got weird. Now things have gotten a lot better. The
4 last couple years it's gotten really good.

5 Q. Anyone else running commercial operations on
6 the Verde?

7 A. No. No, you won't find, you know -- it's
8 one -- it's a very -- it's a tough river for a
9 commercial operator to run on logistically wise, as far
10 as the river access points are weird. There's a couple
11 people that kind of have come in and applied for
12 permits, but so far I think there's only one other
13 person who's been issued a temporary permit.

14 Q. When you say it's a tough river, what do you
15 mean by that?

16 A. It just wasn't set up. When you go to most
17 river towns -- I've been in the business for a long
18 time as a professional guide for many, many years, and
19 you go to most towns in Colorado, Utah, New Mexico, and
20 a lot of their commercial operations, a lot of
21 permitting for land use zoning was around the river.

22 And the Verde River Valley wasn't that way.
23 So we just don't have these river access points that
24 are all buffed out. Shuttles take a long time.
25 There's just a lot of logistical things.

1 Once you get into it and start doing it and
2 put a pencil to it, you go, oh, my God, you know, all
3 the things you have to come up with to make these
4 things happen. It's getting easier because more people
5 are involved in it now. There's a lot more
6 consciousness on the river, the economic opportunities
7 that are there. So a lot of changes are happening,
8 but, you know, it's been a slow go.

9 Q. Moving along that access line, what is access
10 like as you come down the river? Are you having
11 trouble accessing certain points? Are you having
12 trouble moving down the river corridor?

13 A. It's the river -- the river access points
14 are -- just in the last year or two have they put up
15 signs so that the public actually knows there's access
16 points. And so you do have them, but the roads to them
17 are pretty burly. You've got to almost have four-wheel
18 drive high-clearance vehicles, and then they're not in
19 places that are conducive to launching a trip. They
20 might be in areas where there's a shear drop-off. You
21 kind of go, okay, how do I get my boat in the water
22 here without getting wet, things of that nature. It's
23 just not a lot of these river access points were well
24 thought out by boaters.

25 Q. As you move down the river, do you have any

1 problems going on that river corridor with access;
2 fences, private landowner issues?

3 A. No. The only issue that we do have going
4 down through a lot of the middle Verde section is
5 diversion dams that are there for the irrigation, the
6 water users.

7 Q. What time of year is most of the boating
8 happening in your operation?

9 A. March through October, with the heaviest
10 emphasis, say, May through September.

11 Q. And what are the flow rates like at that time
12 of year, if you can recall?

13 A. Spring is good. Spring, of course, we're
14 dealing with spring runoff, as long as we get a winter.
15 We've got higher flows.

16 Once we move into the May, when all the
17 irrigation, everybody is watering fields, livestock,
18 everything's growing, certain parts of that river
19 corridor, especially those that are below the
20 irrigation dams, can get pretty skinny. Some of them
21 actually completely dry up until you move downstream
22 maybe another seven, 800 yards, and then groundwater
23 seeping underneath these dams start coming back in.
24 But it gets pretty hard come May, June.

25 Once you get monsoon season starting, boom,

1 everything starts flash flooding again, people aren't
2 using as much water, and it goes back into better
3 navigability.

4 Q. When you say flash flooding, how many times a
5 year is flooding an issue where you can't run a trip or
6 you need to cancel a future trip?

7 A. Spring runoff, again, spring runoff, if we
8 get a big winter, boom, you know, that first part of
9 March can be pretty tricky. So we'll always have a
10 couple of days here and there where we might have to
11 call trips or we have to go into bigger boats; we have
12 to go into rafts and do these things. Just depends on
13 the conditions, what skill level everybody's got at
14 that time.

15 And then during the monsoon season, we'll
16 average probably two to three days during the monsoon
17 season where you just have to call it because of flash
18 flooding conditions.

19 Q. So the vast majority of the year, if I hear
20 you correctly, is a -- the river is in a boatable
21 condition, it's safe for boaters?

22 A. Yes.

23 Q. And, commercially, you stand behind that?

24 A. Yes.

25 Q. What are the depths like as you move down the

1 river where you're running your commercial operation?

2 A. Well, this time of year, of course, you know,
3 the wintertime, we're running with a nice base flow
4 because not many water users are out there, plants
5 aren't growing, things of that nature.

6 So up in the Clarkdale area we're looking at
7 pools right now that are anywhere from, say, 3 to
8 5 feet deep. In our chutes and little drops, you know,
9 they're about anywhere from, you know, mid-calf to knee
10 to go through the little chutes that connect the deeper
11 pools.

12 As you move downstream, it starts -- you
13 gather more and more water constantly, and down in Camp
14 Verde right now the river is running close to about
15 300 cubic feet per second, according to the gage here
16 this morning, and down there it's a lot deeper. You
17 know, Oak Creek has come in. Beaver Creek has come in.
18 West Clear Creek has come in. So down they're we're
19 going to have pools that are going to be anywhere from,
20 say, 4 to 6 feet deep, and your chutes are going to be
21 anywhere from knee to hip. There's a lot more water
22 down there.

23 Q. Do you ever have any issues with a lack of
24 water on these trips, where you're getting out and
25 pulling your boats?

1 A. No. I mean every once in a while you'll --
2 these are customers; these are people sometimes that
3 just don't -- they don't actually follow the flow.
4 Some of them just go off in their own world and, you
5 know, they get grounded out.

6 But the river -- and we've done a lot of work
7 to it. When the water gets low, we've gone out there,
8 we have to move rock around. We have to -- where we
9 see people are stacking up or where they're not
10 following the current, the flow, we've actually gotten
11 out there and we move the rock around so that people
12 can boat through it. It does get skinny in May and
13 June, but we've never had a season that we haven't been
14 able to do it.

15 Q. Now, you mention you move rock around. Could
16 you boat the river without moving the rock around?

17 A. You would be getting out of your boat a lot.

18 Q. And what section are you talking about there?

19 A. All the sections.

20 Q. What kind of boats do you use on these trips?

21 A. We use the inflatable kayaks. They call them
22 duckies. These are -- they're real safe. They're
23 stable. They're like miniature little rafts, but
24 they're in the shape of a kayak, and you need
25 absolutely no skill whatsoever to use them. That's why

1 we -- you know, most of our customers, they're just
2 interested in a river experience. They're not out
3 there to become expert boaters or do anything way too
4 technical. So the inflatable kayaks, the duckies, are
5 just perfect for what we do.

6 Q. So these are extremely stable boats?

7 A. You bet.

8 Q. More stable than a canoe?

9 A. A lot more.

10 Q. What's the draw on a kayak, an inflatable
11 kayak?

12 A. You know, you get the average person in
13 there, you would probably be going down 5 or 6 inches.

14 Q. Is that a deeper draw than a canoe?

15 A. No. No, a canoe, it would take more. You
16 know, it's probably not a whole heck of a lot more, but
17 it's going to be -- because of the way it's made, it's
18 narrower. These inflatable kayaks are wider so it
19 disperses, and, of course, they're inflated, they've
20 got air in them, so it displaces the weight, you know,
21 across the water differently. A canoe, once you put
22 that in the water, they go down quite a bit.

23 Q. Do you ever canoe on this river?

24 A. No, we don't.

25 Q. Let's talk about some of the impediments that

1 you encounter as you're moving down the river.

2 Have you ever seen a beaver dam on the river?

3 A. In the upper Verde I've seen ponds where
4 they've -- they block things up. I wouldn't
5 necessarily call them a dam, but, you know, they're out
6 there trying to retain water in the deep pools where
7 they live. They live in the banks, yeah, the beavers
8 in this part of the world. So they're trying to keep
9 their pools full, and so they'll go down and they'll --
10 but they'll never dam it up. It just is helping the
11 water not flow through the reeds so quickly.

12 Q. And in the stretch from Clarkdale, say, to
13 Camp Verde, you haven't seen any beaver dams across the
14 channel, the main channel?

15 A. Again, they're not dams. They're -- but,
16 yeah, beavers are doing stuff all the time.

17 Q. Have you ever come across something where
18 you've needed to go over?

19 A. Yes.

20 Q. And what do you do in that situation?

21 A. We go over it.

22 Q. How long does that take?

23 A. Because you've got to get out of your boat.
24 It depends, if it's really cold and you don't want to
25 do it. You know, this is anywhere, you know, five to

1 ten minutes to get around the whole thing, because
2 usually wherever they've built these things it's going
3 to be very reedy. There's going to be lots of bushes
4 and trees. There's lots of things to navigate around
5 when you get to these things.

6 Q. What type of rapids do you encounter?

7 A. On the stretches that we boat, it's a
8 Class I, Class II. These are all float trips. This is
9 puppy dogs and ice cream, moonbeams and unicorns.

10 Q. Any safety issues with these rapids?

11 A. No, no safety issues at regular flows. Once
12 you get into the -- once you get to flash flooding,
13 then it goes -- it can get off, it can go off. It can
14 get very dangerous.

15 Q. And how many times a year would you say it's
16 flash flooding?

17 A. Well, you know, again, during the monsoon
18 season you're going to have stuff happening, you know,
19 periodically throughout the season, in different
20 sections of the river too.

21 And then in the spring runoff you might have
22 anywhere from, you know, two weeks to a month of very
23 high water. And what becomes technical is that the
24 current's moving you through the floodplain, and the
25 floodplain now has got trees in it, and so you're

1 boating right into trees.

2 Q. So a month a year, you would say, water is
3 high enough that there's an issue?

4 A. Yes.

5 Q. Have you seen any other types of boats on
6 this river besides IKs?

7 A. Canoes are a huge part of the Verde River.
8 It's very canoeable. That's probably your dominant
9 craft out there. Hard shell kayaks, canoes, and then
10 certain times of the year you'll see rafts out there
11 when it's -- in the spring runoff or during the monsoon
12 season, when the water is higher.

13 Q. How often do you see canoes?

14 A. Every day.

15 Q. Are they loaded, unloaded; how much weight?

16 A. No, most -- the sections that we boat on,
17 most of the things we see are the day-trippers, people
18 who are out there. They might have a cooler. They
19 might have something for a picnic; you know, and then,
20 of course, your basic emergency gear, things of that
21 nature.

22 Q. Do you know of a young man named Caleb?

23 A. Yes, I do.

24 Q. Can you tell me a little bit about his
25 operation?

1 A. Don't know much about it. He just obtained a
2 permit here within the last year, and he primarily, in
3 his world, I believe he's primarily doing the hard
4 shell kayaks and canoes on the Verde River.

5 Q. And how old is he?

6 A. He's a pretty young guy, I would say maybe
7 25, 26.

8 Q. So he's just starting his commercial
9 business?

10 A. Correct.

11 Q. And you mentioned this a little before, but
12 is there a reason that -- you said the river isn't set
13 up for commercial business, but are there any other
14 reasons why there isn't more commercial boating? Are
15 there any issues with water?

16 A. Certainly. You know, I mean if you look at
17 the statistics of where the river's going with all of
18 us living in the Southwest, all of us wanting to live
19 in the Verde River Valley, over in Chino Valley,
20 there's a huge danger that we're going to pump it dry.
21 So from a long-term, you know, business perspective, I
22 mean is it a smart investment.

23 Q. But you feel comfortable in your investment
24 at this point?

25 A. Well, this is not going to happen in my

1 lifetime.

2 Q. As you're moving through the river, do you
3 see it as a pool and riffle type river?

4 A. Correct.

5 Q. With pools deeper and riffles more shallow?

6 A. Correct.

7 Q. And how deep do those pools get?

8 A. You know, average depth in the lower portion
9 of the Verde River Valley there, you're going to have
10 pools that are going to be anywhere from, you know, 4
11 to 6 feet. The upper, the upper stretch, where there's
12 less water, you're going to have things that are going
13 to be maybe 2 to 4 feet in those deeper pools.

14 Q. And you said that the riffles are, in some
15 areas today, calf to knee; is that correct?

16 A. They're what, now?

17 Q. You said in some areas the riffles are calf
18 to knee height?

19 A. As far as the depth, right. This time of
20 year you can actually see the bottom. It runs very
21 clear this time of year.

22 Q. And what happens when the irrigation is shut
23 off?

24 A. Everything, the entire river corridor, the
25 river rises.

1 Q. What type of depths do you notice?

2 A. Oh, because it's spreading out across the --
3 you know, off the river corridor, you're going to see
4 anywhere from, you know, 6 inches to almost a foot in
5 some places.

6 Q. Of an increase or --

7 A. Oh, yeah.

8 Q. Okay. What section is that?

9 A. Well, right now down in Camp Verde, where,
10 again, that gets the majority of the water and that's
11 also -- during irrigation season that's the one that
12 gets the least, because you have, I don't know how
13 many, 49 different water users, irrigation canals,
14 pumps that are all up and down that whole Verde River
15 corridor.

16 So what was your question, again?

17 Q. The depth increases, in what sections do
18 those occur when the irrigation is shut off?

19 A. Okay. This time of year down in Camp Verde,
20 boom, you know, it's way up. Up in the Clarkdale
21 stretch there's not -- there's only one water user
22 above us, so that we're not seeing so much there. But
23 all up and down, you know, the middle Verde corridor,
24 those -- the water level rises significantly during
25 the -- once everybody stops irrigating.

1 Q. Why did you pick the Verde to do your
2 commercial operation, as opposed to the Salt or the
3 Gila?

4 A. Well, a number of reasons. One, you know, I
5 live there in the Verde River Valley. Nobody was doing
6 it, and it's in a great location in terms of people.
7 People are coming to Sedona. People are going to the
8 Grand Canyon. I mean we're in the middle of a
9 tremendous amount of people looking for fun things to
10 do.

11 And the Salt River, well, you know, there's
12 no permits for that. You know, you have to queue up or
13 buy somebody's operation to do that.

14 The Gila is even, you know, more of a
15 challenge, and it's in the middle of nowhere. And I
16 worked commercially on both of these guys as a
17 professional guide, so I know a lot about them.

18 Q. And this is your main employment, right?

19 A. Correct.

20 Q. Have you been down other sections of the
21 river apart from where your commercial operation is?

22 A. Yeah. Are you talking the Verde River?

23 Q. Right.

24 A. Yeah, completely. I've been from Sycamore
25 Canyon all the way down to Horseshoe Reservoir and then

1 have boated different sections below Bartlett Dam.

2 Q. Have you seen other boats when you have
3 gone?

4 A. Oh, yeah.

5 Q. What type of boats?

6 A. Everything from, you know, inflatable kayaks,
7 canoes, rafts, hard shell kayaks; pretty much all your
8 boating craft that you would use for rivers and
9 streams.

10 Q. As you have had your operation, you've been
11 in the Verde Valley for 20 years?

12 A. 22, yeah.

13 Q. And your operation for about 8 years?

14 A. Correct.

15 Q. How has the river changed over that time?

16 A. How has the river -- well, whenever we get
17 the big flash flooding, of course, everything changes.
18 You know, there's certain places that just get -- the
19 channel gets moved over here, where it used to run over
20 there, particularly at confluences, where you have the
21 Oak Creek coming in, you have West Clear Creek, Beaver
22 Creek. Those things get -- during the big water events
23 those areas get really crazy because everything's
24 going. The Verde River is going off, plus the side
25 canyons are going off.

1 And then when we have the big flood events,
2 it cleans the whole corridor out. There's no more
3 trees. Because once we go into low water times, the
4 entire river corridor becomes -- is overgrown with
5 trees and bushes and all kinds of vegetation, and when
6 we have our big flood events, bam, I mean it's just
7 cleared out.

8 Q. Anything else you would like to say about
9 your operation?

10 A. Well, how many people here have ever boated
11 on the Verde River? Can I ask the audience here?

12 We're offering a 12 percent discount, called
13 12 Days of Christmas. Sorry about that. You go to our
14 website and we are, we have 12 Days of Christmas gifts
15 out there today. You can buy 30 percent off, plus
16 thank you very much for contributing to my winter
17 employment.

18 Q. I want to ask you one more thing here. Some
19 exhibits were submitted. I believe SRP submitted some
20 exhibits related to your Sedona Adventure Tours.

21 A. Correct.

22 Q. And that's -- your company is Verde River
23 Adventures, which works under Sedona Adventure Tours?

24 A. Right. The Sedona Adventure Tours is
25 primarily a website where people are booking our trips

1 as well as other trips too, and Verde Adventures is the
2 operating company that has the permits with the Forest
3 Service, the State Parks, and the Town of Clarkdale.

4 Q. And I believe I'm looking at the top one.

5 A. Okay.

6 Q. And you've got a description of your Verde
7 River trip?

8 A. Are you talking about the new guided trip on
9 the Verde River at Clarkdale?

10 Q. Yes.

11 A. Yeah.

12 Q. Where it starts "Interspersed with
13 exhilarating chutes" --

14 A. Yeah.

15 Q. -- do you see that?

16 Okay. As part of your marketing tool, are
17 you setting this up to meet the needs and the
18 expectations and the thrills of your customers? How do
19 you write these paragraphs?

20 A. Oh, my God. You know, a lot of wordsmithing,
21 you know. Yeah, we're trying to portray, you know,
22 that these are fun, safe float trips. This isn't
23 whitewater rafting.

24 You know, when we first started out, you
25 know, when people hear river trips, they think of the

1 Colorado. They think of other rivers. So we do
2 everything we can to make it, you know, sound fun,
3 exciting, safe, fun family thing. And we're all
4 writing this, actually, so that she who must be kept
5 happy at all cost and makes every economic decisions
6 will buy our product.

7 Q. So when you mention exhilarating --

8 A. This is like a no-brainer. Okay.

9 Q. When you mention exhilarating chutes, what do
10 you mean?

11 A. Oh, they're fun. You know, you get splashed
12 and you get to go through these fun little chutes
13 that -- these are where the little waves are; you know,
14 this is where people get wet and scream.

15 Q. And lower down on the page you say "This is a
16 physical activity with a mandatory portage"?

17 A. Yeah.

18 Q. Can you talk a little bit about that portage?

19 A. Well, this one, this particular stretch up in
20 Clarkdale, this is a dam that was built back in the
21 mining days to hold water for a combination of things;
22 for, you know, the smelter, the whole mining operation,
23 and then it also diverts water into a lake up there
24 outside of Clarkdale called Peck's Lake.

25 So they built this, you know, back in, God

1 knows when, 1912, 1917, whenever that whole operation
2 started up. And it still exists today, and it's quite
3 the barrier that impedes boating. You have to stop,
4 get out, and walk your boat around the dam at most
5 water levels. Once it's been higher, and I've boated
6 at higher levels, it just becomes a big wave and you
7 just go over the whole thing.

8 But right now it is -- we want to let people
9 know this is -- you know, this particular trip requires
10 that you get out of your boat in the middle of the
11 trip, you know, walk around. Our guides deal with your
12 boat, but you've got to walk around, over some pretty
13 uneven ground, and then walk down a staircase. And
14 then we send the boats over the dam and another guide
15 at the bottom grabs them and swings them around so that
16 people can get back in them, and off they go again.

17 Q. And right below that I think we have the
18 frequently asked questions; do you see that?

19 A. Is there a page I'm looking for in
20 particular?

21 Q. Yeah. It's going to start off with your main
22 website page, your index, and then it's going to have
23 your FAQs.

24 A. Okay, got it.

25 Q. You have a question on there, "Do you have to

1 have kayaking experience?" And how do you answer that?

2 A. "No."

3 Q. And why not?

4 A. Well, that's why we use the inflatable
5 kayaks. The duckies are -- you just don't need any
6 skill. You can hit things, you can bounce off things,
7 you can get stuck on things, and they do -- they
8 just -- they're just a superior craft for any kind of
9 boater. I mean I'm a pretty good boater, and that's
10 what I use.

11 Q. And we also have a Facebook post. You might
12 have passed that already.

13 A. Got it.

14 Q. That's it.

15 And this is from August 19th. It said you're
16 closed today due to all the wonderful moisture we are
17 receiving.

18 Can you talk a little bit about why you were
19 closed?

20 A. Big old flash flood that just nailed our --
21 you know, that area around Sycamore Canyon and
22 Clarkdale, that just put the water level at a place
23 where we just went, okay, yeah, we're not going to be
24 able to do this today.

25 Q. How long did that last?

1 A. A day.

2 Q. One day?

3 A. Yeah.

4 Q. And the next day you were back on the river?

5 A. Correct.

6 Yeah, during the monsoon season it tends to
7 be a daily occurrence, you know, and depending upon
8 which stretch of the river you're on, where the cloud
9 bursts are located. It varies all over the place.

10 Q. Do you have a specific flow range that you
11 cut off trips at?

12 A. Right. On the upper Verde, in the Clarkdale
13 stretch up there, it's 300. And down in the Camp Verde
14 stretch it's about 700 where we -- the water is ripping
15 pretty close. And we'll actually look at our crew and
16 talk to people before they go out, if we've got, you
17 know, a good group of athletes, people who are
18 comfortable, and we'll also increase our
19 guide-to-passenger ratio and just to make the trip
20 safer.

21 During the summertime it's not a big issue,
22 because if people go swimming, they're just swimming,
23 they're having a great time. During the spring it's
24 hypothermia, you know, and the spring runoffs tend to
25 be vastly bigger.

1 Q. And what about the low end of those cutoffs;
2 is there a low flow range that is too low for you to be
3 boating?

4 A. Not yet.

5 Q. So in your opinion, in the segment that you
6 commercially boat, is that a navigable river?

7 A. Oh, yeah.

8 Q. And in the other segments that you have
9 boated on, but you don't have commercial activity
10 yourself, is that a navigable river?

11 A. They're tougher because there's a lot -- you
12 know, since nobody's out there maintaining them on a
13 regular basis, there's a lot more tree growth,
14 strainers, trees that have fallen.

15 What we do on the stretches that we
16 commercially boat all the time, we're out there
17 constantly cutting back the bushes, the trees. When
18 things fall into the river, we go out there with our
19 chainsaws, because we've got to get all that stuff out
20 of the river or people -- it's just not safe. You
21 can't get around it.

22 So when you go into stretches of the river
23 that we don't boat commercially, that can get
24 relatively overgrown with all kinds of strange things.

25 Q. And so some of the improvements that you're

1 making, that's to provide a better experience for your
2 customer, right?

3 A. Better experience and safer.

4 Q. But could you personally or someone who's
5 wanting to go down in a canoe with commercial goods,
6 could they go down that river without those
7 improvements?

8 A. Oh, sure. Yeah, someone who knows what
9 they're doing, you bet.

10 Q. So a skilled boatman?

11 A. You bet.

12 MR. SLADE: That's all the questions I
13 have. Thanks a lot for coming out.

14 THE WITNESS: Thank you. Merry
15 Christmas.

16 MS. HERNBRODE: You don't get to leave.

17 CHAIRMAN NOBLE: One moment.

18 THE WITNESS: Oh, I don't get to leave?
19 Okay.

20 MS. HERNBRODE: The fun is almost over.

21 CHAIRMAN NOBLE: Mr. Hood, I take it
22 that you would like to ask Mr. Lynch some questions?

23 MR. HOOD: If it would be all right with
24 you, Mr. Chairman.

25 CHAIRMAN NOBLE: It is all right with

1 the Commission.

2 MR. HOOD: Great.

3

4 CROSS-EXAMINATION

5 BY MR. HOOD:

6 Q. Good morning, Mr. Lynch.

7 A. Good morning.

8 Q. My name is Sean Hood. I represent Freeport
9 Minerals, who you're familiar with, it sounds like?

10 A. Yes, I am.

11 Q. Freeport Minerals is a related entity to
12 Freeport McMoRan, as I'm sure you put together.

13 A. Okay.

14 Q. Let me ask you, I want to back up to the end,
15 towards the end of your discussion with Mr. Slade; and
16 he asked you if there was any low end cutoff in terms
17 of discharge or depth, and you said not yet.

18 What's the shallowest the river's been when
19 you've been out there boating it?

20 A. It gets pretty skinny. I mean in terms of
21 cubic feet per second, the Camp Verde stretch has been
22 down into the 17, 18 cubic feet per second, and which
23 isn't a lot of water; but, again, it all stays in the
24 channel. We're out there moving rocks. We're helping
25 to keep the water in channels so that it is boatable in

1 different sections.

2 Up in the Clarkdale and the middle Verde
3 stretch, there's just more water up there because
4 there's less water users. There's less diversion dams
5 in those particular stretches.

6 Q. What would you estimate the lowest discharge,
7 in cfs, has been in that area that you've still been
8 able to boat?

9 A. Well, according to the gages -- and, again,
10 the gages are weird because it depends on where they're
11 at, where they fall in the river, and what diversion
12 dams are out there and who is irrigating, who's
13 pulling. But according to the USGS gages up there in
14 Clarkdale, it's around 50 has been the low flow that we
15 saw; not this year, but it was last year, I believe in
16 June.

17 And the same thing with the low flow in Camp
18 Verde according to the SRP gage. They have some low
19 flow indicators. They're saying that it was
20 somewhere -- in Camp Verde was somewhere around 18, 19,
21 17 was the low flow last year during the month of June.

22 Q. And that was in Clarkdale?

23 A. No, that was -- 17, 18, that was down there
24 in Camp Verde.

25 Q. Camp Verde. And so what would you estimate

1 the depth was when you were down in that 17 to 18 cfs
2 range, very skinny, like you said?

3 A. Oh, it was skinny. You're talking about
4 areas of maybe just enough to get the boats through,
5 you know, maybe 8 to 10 inches in some spots.

6 Q. Have you seen any portion of the river
7 shallower than 8 to 10 inches?

8 A. Yes, particularly right after -- you know,
9 right after some of the big diversion dams, it will
10 dry up. It will almost be completely gone, and then
11 the groundwater starts coming in downstream several
12 hundred yards.

13 Q. You talked about the river rising when people
14 stopped irrigating. Do you remember that testimony?

15 A. Correct.

16 Q. What time of year is that when the irrigation
17 starts to slow down?

18 A. October.

19 Q. Oh, I meant to follow up. The 50 cfs in
20 Clarkdale, which is the lowest I think you said you had
21 seen it, at least according to the gage data, what
22 depth did that equate to, approximately?

23 A. You're going to be looking at, you know,
24 maybe -- going through the chutes and the riffles,
25 those are going to be the lowest spots. You know,

1 you're looking at, you know, a lot of like mid-calf. I
2 don't know. Maybe a foot or a little bit more of
3 water. Not quite as bony as the Camp Verde stretch.

4 Q. And when you're talking about these
5 inflatable duckies that draw 5 to 6 inches and you've
6 got mid-calf water, are you bouncing on some of the
7 rocks from time to time?

8 A. Yes.

9 Q. And I assume that's one of the reasons you
10 use these duckies, is these inflatable craft are pretty
11 good for when you're bouncing on rocks?

12 A. Correct.

13 Q. You would rather be in an inflatable ducky
14 than in a wooden canoe bouncing on rocks?

15 A. Correct.

16 Q. Mr. Slade asked you a question about the draw
17 of a canoe, and you said it was more than the
18 inflatable kayaks that you use, the inflatable duckies,
19 so more than that 5 to 6 inches.

20 Can you be more specific in your estimate of
21 what their draw would be?

22 A. I'm not a canoer. I'm a ducky guy. But I
23 see these guys, you know, going. I can see and I can
24 hear them when they're coming down. When they're
25 coming down the river at lower flows, you can hear

1 them, you know, going over the rocks. You can see them
2 hitting things and talking about, oh, yeah, we had to
3 get out and drag here, we had to get out here; where
4 the duckies will, for the most part, glide right over
5 everything.

6 Q. So when portions of the stream are in
7 mid-calf depth condition, you're hearing the canoes
8 colliding with the rocks?

9 A. Yeah. Different times of the year, yes.

10 Q. You talked about you've been doing this a
11 long time, you've been running an outfitter's business
12 in multiple states over the years; is that --

13 A. No, worked professionally since '92. Guided
14 all over Idaho, Montana, Utah, Colorado, New Mexico,
15 Arizona, and then started my operation in 2007.

16 Q. What rivers and streams have you guided on
17 over the years?

18 A. Oh, my God. Well, all up and down the
19 Colorado River, through the Grand Canyon, up in Montana
20 on the Lochsa, the Flathead, the Snake, the Green
21 River, the Yampa, the San Juan River, the Animas, the
22 Rio Grande, the Gila River, the Salt River, both
23 sections, upper Salt, lower Salt. All those I guided
24 commercially and more. I can't remember them all.

25 Q. Tell us about the San Juan. That's in Utah,

1 if I remember correctly?

2 A. Right.

3 Q. Tell us about that one.

4 A. Gorgeous river. Oh, my God. I mean classic.
5 It's a Grand Canyon style trip that you -- but you
6 don't have to take the -- you don't have to go out and
7 do it in two weeks. You can do an overnight trip or
8 even a day trip.

9 Q. How does -- what kind of depths do you
10 typically have on the San Juan?

11 A. Again, you know, it depends on the time of
12 year. You know, that can get pretty skinny in the late
13 summertime, because it's also a working river. You
14 have tremendous amount of water users up, and it's also
15 dam-controlled with the Navajo Dam coming out of New
16 Mexico.

17 So it will be all over the place; but, you
18 know, its average flow when I'm out there boating it is
19 somewhere in the neighborhood of like 1,000 to 2,000.

20 Q. And what kind of depths are you getting at
21 that 1,000 to 2,000 cfs discharge?

22 A. Hard to tell. It's such a sediment river you
23 just don't see the bottom, you know, but you're not
24 hitting stuff. You've got a great channel all the
25 time.

1 Q. What kind of boats have you used on the
2 San Juan?

3 A. Duckies and rafts.

4 Q. What kind of rafts?

5 A. Everything from 9 1/2-foot rafts all the way
6 up to 18-foot Achilles Grand Canyon style boats.

7 Q. Have you ever used those kinds of rafts on
8 the Verde?

9 A. The smaller ones, yes. We use smaller rafts,
10 like I said, when we have periods of high water, and
11 just for us guides ourselves, when we want to go
12 boating, I've got a fleet of smaller rafts that we go
13 boating when we have the opportunity.

14 Q. What about the 18-footers, have you ever used
15 one of those on the Verde?

16 A. No, I've not used them, but I see them.

17 Q. And that's only, probably, during the
18 spring runoff, March time frame; February, March,
19 maybe?

20 A. Yeah. Monsoon time, yeah. A lot of the
21 bigger boats, they want to run the whitewater section,
22 which you've got to have quite a lot more water to run,
23 but they'll run all the way from Beasley Flats down to
24 Childs is a real frequent raft trip for big water.

25 Q. And would that be February through March, or

1 what --

2 A. Yeah, February, January. Well, all winter
3 long. Well, I shouldn't say all winter long; but,
4 yeah, whenever we have the higher winter events. Once
5 we start getting snowpack and it starts releasing
6 higher waters, I've seen winters where people have
7 boated it all winter long in rafts because it just had
8 that much flow consistently because we were getting
9 back-to-back storms all the time and something is
10 constantly melting on those lower benches. So, you
11 know, it had great flow going down to Horseshoe
12 Reservoir, going down to Childs.

13 Q. And there's some variability year to year,
14 correct?

15 A. Oh, yeah.

16 Q. Yeah. You've been doing this seven, eight
17 years, it sounds like, on the Verde?

18 A. Well, no, I came up, I started boating here
19 in '92, came up here, and then when we had the epoch,
20 epoch water years. Oh, my God. You know, that's when
21 I first came here to Arizona. I had no idea that there
22 was ever a drought. Who said -- who -- everything was
23 raging when I first got here, and so I've been boating
24 it for a long time.

25 Q. I'm trying to identify what a typical year

1 looks like in terms of the spring runoff and the
2 snowmelt and the winter high flow period. What would
3 you characterize that in a typical year, which months
4 or which portions of which months?

5 A. Run that by me again, now?

6 Q. Yeah, that wasn't very well stated.

7 A. Yeah, that kind of sounded complicated.

8 Q. Yeah, it was, and I apologize for that.

9 A. That's okay.

10 Q. Thank you so much.

11 What I'm trying to get a sense for, obviously
12 some Januarys are going to be wetter than others, and
13 that might be a high flow period; whereas in some
14 years, really, when you're talking about the high
15 flow period, you're talking more about February and
16 March --

17 A. Right.

18 Q. -- is that fair?

19 A. Yeah.

20 Q. And I just want to get a sense, in a typical
21 year, what does the high flow winter period comprise in
22 a typical year?

23 A. Are you talking about the flow levels, or are
24 you talking about --

25 Q. Which -- which --

1 A. -- the period of time?

2 Q. Which period of time tends to be the high
3 flow period in a typical year, understanding there's
4 variability year to year?

5 A. Well, from looking at logistics, again, going
6 to the USGS site -- and I might not be a hundred
7 percent accurate. It's been a while since I've taken a
8 look at all this stuff. But I believe it's like the
9 very last week of January and the first three weeks of
10 February typically are the big event times, because
11 that's when we're getting -- you know, we're getting
12 big snow. But this will run -- your big -- your runoff
13 will run all the way into -- usually into, you know,
14 say, mid April.

15 Q. So March usually tends to be a higher flow
16 period as well?

17 A. Oh, yeah.

18 Q. Yeah, okay.

19 Do you have any understanding about when
20 inflatable duckies became available, what year or what
21 time frame?

22 A. No. I mean I just -- everyone was using them
23 when I came on the scene.

24 Q. What year was that?

25 A. '92.

1 MR. HOOD: May I approach, Mr. Chairman?

2 CHAIRMAN NOBLE: Yes.

3 MS. HERNBRODE: What exhibit?

4 MR. HOOD: This is Final Report Criteria
5 For Assessing Characteristics of Navigability For Small
6 Watercourses in Arizona. This is Verde 21 from the
7 first phase of the proceedings.

8 BY MR. HOOD:

9 Q. I'm just going to have you read that
10 paragraph, if you would.

11 A. Okay.

12 Q. Mr. Lynch, would you please read the -- and,
13 I'm sorry, let me give a page number. We're on
14 Page 32; is that right --

15 A. Yes.

16 Q. -- of that document?

17 A. Yes, 32.

18 Q. Would you please just read out loud the
19 paragraph that I bracketed for you?

20 A. Certainly.

21 "Kayaks, although common in the arctic
22 regions for thousands of years, were apparently not
23 used in Arizona until after World War II. Inflatable
24 boats were available as early as the 1850s, but these
25 boats were awkward, difficult to maneuver, and not very

1 durable, and it was not until artificial rubber was
2 developed during World War II that inflatables became
3 feasible."

4 Q. And you don't have any information that would
5 cause you to take issue with any of those statements,
6 do you?

7 A. Well, again, I don't know anything about when
8 they were first developed or --

9 Q. And that's what I'm asking you.

10 A. -- any of this stuff, yeah.

11 Q. Do you have any personal knowledge that you
12 would say I disagree with this statement or that
13 statement? It sounds like no?

14 A. No.

15 Q. Okay. Thank you.

16 Let me just make sure I've got the right
17 website here. You're at -- it's Verde Adventures. The
18 website is Verde Adventure dot-com, without the S; is
19 that --

20 A. Yes. Somebody else owns that domain name.
21 We couldn't get that one.

22 Q. Okay. And so -- and I'm not sure.

23 MR. HOOD: May I approach again,
24 Mr. Chairman?

25 CHAIRMAN NOBLE: Yes.

1 BY MR. HOOD:

2 Q. This is the website that I pulled up. Can
3 you just confirm for me that this is a picture of one
4 of the rubber duckies --

5 A. Yeah.

6 Q. -- that you were describing?

7 A. Yeah.

8 Q. Great.

9 CHAIRMAN NOBLE: Mr. Hood, that may be a
10 little difficult to enter into the record.

11 MR. HOOD: Yeah, let me -- I wanted to
12 confirm I was on the right website, because I saw Verde
13 Adventure, Verde Adventures, and some other variations.

14 What I have a plan to do, and I'm happy
15 to show this to Ms. Hernbrode, I would probably -- I
16 have now -- it's at Verde Adventure dot-com, and I have
17 a picture of an inflatable ducky, and I will probably
18 be making a color photocopy of that and submitting it
19 to Mr. Mehnert later this week.

20 CHAIRMAN NOBLE: Thank you.

21 BY MR. HOOD:

22 Q. And I think what you said with Mr. Slade
23 earlier is that you don't use canoes with your
24 operation?

25 A. Correct.

1 Q. You focus on the duckies?

2 A. Right.

3 Q. Have you ever personally used a canoe in the
4 Verde?

5 A. No.

6 Q. You have a strong preference for the duckies?

7 A. Right.

8 Q. They're a superior craft at least as far as
9 the Verde River goes?

10 A. For our customers they're great. You know,
11 and I started boating in an inflatable kayak, so --
12 canoes are very technical. You've got to have great
13 skill. This is not a boat for just anybody to go out.
14 Boating in a canoe on moving water, you've got to have
15 skill. Boating on the Verde River in a canoe, you
16 better have skill or you're out of the boat and you're
17 wrapped around a tree and, guess what, you just bought
18 a new canoe, because those things will break in half.

19 Q. On what rivers have you used a canoe?

20 A. In Missouri, up where I grew up on the
21 different rivers outside of -- in the Ozarks, and I
22 can't remember all their names, but that was a quite
23 common thing that we did when we were -- when I lived
24 back there.

25 Q. What time frame was that?

1 A. This would have been '70s.

2 Q. And had you seen any of those rubber duckies
3 at that point?

4 A. I don't think so. I don't -- yeah, I don't
5 recall. Missouri is kind of a canoe state.

6 Q. So you've spent a lot of time in a canoe,
7 just not on the Verde?

8 A. Correct.

9 Q. You talked about the location of the USGS
10 gages. Do you know where they are? Do you --

11 A. Yeah.

12 Q. When you go by them, you say, oh, here --

13 A. Right, you can tell.

14 Q. -- here's the Paulden gage, here's the --

15 A. You bet.

16 Q. Okay. Which gages are you familiar with?

17 A. On the Verde River, the Clarkdale gage, the
18 Camp Verde gage, the Tangle, which is down there
19 towards, you know, Horseshoe Reservoir. Those are the
20 three that we pass on the river trips, and those are
21 the only three that are out there.

22 There are some SRP low flow gages at
23 different spots, and they tend to be disguised to look
24 like rocks so nobody can do anything with them, I
25 guess.

1 Q. And where -- so let's -- I think the first
2 one you said is the GS gage near Clarkdale?

3 A. Correct.

4 Q. And where is that located? Is it in a pool;
5 is it in a riffle?

6 A. No, it's actually kind of -- yeah, it's in a
7 pool, right along, you know, a big cliff face, and it
8 maybe is maybe a mile and a half, two miles down from
9 the confluence with Sycamore Canyon.

10 Q. The Camp Verde gage is also in a pool, right?

11 A. The Camp Verde gage, yes, Camp Verde gage is
12 also in a pool.

13 Q. And then I think the third that you mentioned
14 is Tangle Creek; is that right?

15 A. Right.

16 Q. And that's also a pool --

17 A. Correct.

18 Q. -- as opposed to a riffle?

19 MR. HOOD: Mr. Lynch, I thank you for
20 your time, thanks for coming down, and have a safe trip
21 back up, and good luck for the rest of the winter.

22 THE WITNESS: Thank you.

23 CHAIRMAN NOBLE: Excuse me, Mr. Lynch.

24 Are there any others who would like to
25 ask Mr. Lynch some questions?

1 MR. HEILMAN: Mr. Chairman, I would.

2 CHAIRMAN NOBLE: Good. You'll do it
3 after the break.

4 We will break for 15 minutes, which
5 means, according to the clock on the wall, 10:35.

6 (A recess was taken from 10:20 a.m. to
7 10:35 a.m.)

8

9

CROSS-EXAMINATION

10 BY MR. HEILMAN:

11 Q. Good morning, Mr. Lynch.

12 A. Good morning.

13 Q. My name is Jeff Heilman. I represent Salt
14 River Project in these proceedings.

15 CHAIRMAN NOBLE: Mr. Heilman, you suffer
16 from the same malady that Mr. Mark McGinnis suffers
17 from, and that is the aversion to the microphone.

18 MR. HEILMAN: Is this better?

19 CHAIRMAN NOBLE: Somewhat.

20 BY MR. HEILMAN:

21 Q. Okay. I'm just going to ask a couple of
22 follow-up questions for you.

23 You say you operate your business --

24 CHAIRMAN NOBLE: Excuse me. Can we get
25 you to spell your last name?

1 MR. HEILMAN: Heilman, H-E-I-L-M-A-N.

2 CHAIRMAN NOBLE: Thank you.

3 MR. HEILMAN: No problem.

4 BY MR. HEILMAN:

5 Q. So you operate your business, Verde Adventure
6 Tours, between March and October; is that correct?

7 A. Correct.

8 Q. What do you do the rest of the year, as far
9 as occupation?

10 A. Just buy the 12 Days of Christmas campaign
11 now.

12 No, well, actually, we have another -- but,
13 yeah, this time of year we're offering constantly gift
14 certificate deals, discounts, whatever, just to
15 stimulate people, you know, purchasing for the next
16 season.

17 We have a wine tour operation that goes to
18 the vineyards throughout the Verde River Valley that is
19 an activity that we do do during the wintertime.

20 Q. And that's not using boats; that's not the
21 Water to Wine tour, right?

22 A. No, no, these are in vans.

23 Q. Okay. And do you have any other jobs besides
24 running this business?

25 A. No.

1 Q. No?

2 You said that your Verde Adventure Tours
3 employs between 18 to 25 people; is that correct?

4 A. Correct.

5 Q. Are all those full-time employees?

6 A. No, no, it's seasonal. Like I said, once the
7 season starts, we'll probably start off there in March
8 with somewhere in the neighborhood of 10 or 12; and
9 then as we move into summertime, when our tubing
10 operation starts up and it's just -- everyone's on, you
11 know, summer vacation and whatever, that's when our
12 numbers will bump up into the 18 to 25 range. Just
13 depends on the year. It depends on our needs.

14 Q. Okay. And you also mentioned in your
15 testimony that a few years ago your business got weird,
16 I think is what you said. What happened during that
17 time period?

18 A. The economic, you know, when the economy
19 went, you know, in the tank. Most of our customers
20 actually come from Arizona and as -- you know, our
21 customers live here, the majority of them, and as, you
22 know, everyone tightened up, and there's only X amount
23 of dollars to go around, so it -- and we were new and
24 the Verde River operation, the whole Verde River
25 experience was very new. I mean nobody even knew there

1 was a river there.

2 Q. Actually, you said on your testimony that
3 when you started running your tours, no one else was
4 doing it at that time?

5 A. No.

6 Q. So you were the first commercial operator?

7 A. I don't think I'm the first. I think people
8 have tried to do this. I know there was a guy who was
9 running a canoe operation for several years. I believe
10 it was called River Otter Canoe, and, you know -- no,
11 and I think there was Red Rock Jeep Tours did a canoe
12 thing down there for several years, and they just got
13 out of it and just started focusing on being a Jeep
14 tour company.

15 And, again, canoes are very technical. I
16 think a lot of them, from what I heard, you know, they
17 lost a lot of gear and equipment because people don't
18 know how to maneuver around obstacles. You've got to
19 have skill.

20 Q. Do you know if they were operating it around
21 the same areas you were?

22 A. Yes.

23 Q. So pretty much the same stretches of the
24 river?

25 A. Yeah, that's -- particularly the one at Camp

1 Verde, that's the one that actually has Forest Service
2 developed river access points, RAPS we call them, where
3 there's restrooms, there's parking, there's information
4 boards out there, things of that nature that make it
5 improved.

6 Q. And as far as the river access points, which
7 ones does your business use?

8 A. Well, right now we're actually permitted on
9 every single one, you know, up and down the entire
10 Verde River Valley, so from -- in the town of
11 Clarkdale, from Lower TAPCO to Tuzigoot to Black
12 Canyon, which is right there in Cottonwood, down to --
13 then at Camp Verde it's White Bridge, Clear Creek, and
14 Beasley Flats.

15 Q. Do you know if people were using those river
16 access points at the time of statehood, 1912, or are
17 they more recent?

18 A. I wouldn't know about the previous years, but
19 all of this started happening -- these got actually
20 developed, I believe, in the early '80s, is when
21 funding became available to create river access points
22 that were improved.

23 Q. Okay. I wanted to talk about what you said
24 your business does to maintain the channel of the
25 river, and you said you move rocks?

1 A. Uh-huh.

2 Q. And you use chainsaws. What are the
3 chainsaws for?

4 A. The trees that fall in the river. You know,
5 because the river is, you know, is a dynamic
6 environment and trees are growing along the bank, you
7 know, and when you have the big flash flooding events,
8 you know, here goes the bank being cut away and so
9 you'll have trees that are falling into the river
10 constantly.

11 Q. And do you have to move rocks after every
12 flash flood because new rocks end up in the river?

13 A. Good question. Sometimes yes, sometimes no.
14 Sometimes after the big floods it just rechannelizes
15 everything. A lot of what we've done, the river just
16 tends to flow with it and actually create a deeper
17 channel than it was before.

18 Q. If you hadn't moved rocks or if you didn't
19 move rocks or cut down these trees or use chainsaws to
20 remove brush and debris, could you operate your
21 commercial business?

22 A. Yeah. It wouldn't be very pretty.

23 Q. Do you think you would have less customers?

24 A. Well, yeah. You'd have to -- I mean you
25 would have to have people getting in and out of the

1 boat all the time.

2 Q. You said you're not a canoer; is that
3 correct?

4 A. Right. I haven't taken that path in terms
5 of -- I've canoed, but it's not what I do now.

6 Q. Why is that?

7 A. Pretty much, you know, when I came out here,
8 everybody was in inflatable kayaks, and, again, canoes
9 are very, very technical. The position you've got to
10 be in in a canoe, in terms of today's canoes, you know,
11 you're basically paddling on your knees, and I don't
12 have really good knees anymore.

13 Q. Okay. And then you also said that with your
14 business and the way you advertise it, you're trying to
15 give them a river -- your customers a river experience?

16 A. Correct.

17 Q. And you actually advertise quite a bit about
18 how safe it is and -- is that correct?

19 A. Correct.

20 Q. Do you choose the portion of the river where
21 you operate your tours based on trying to give a safe
22 trip to your customers?

23 A. Well, no, basically, I mean where we're
24 operating is because this is what our -- these are
25 improved Forest Service, State Park, Town of Clarkdale

1 sites that we actually have the permits on, and this
2 is, you know, how you get to and from the river. If
3 not, you're going to be taking out on private land and
4 putting in on private land, which is not feasible.

5 Q. Okay. Would you operate this kind of
6 commercial tour below Beasley Flats?

7 A. No. That's a tougher stretch to run a
8 commercial. That's very technical. You know, you've
9 got to have people who have really good skill.

10 Q. Would you take a ducky out below Beasley
11 Flats on high flow days?

12 A. No. I would go in a raft. No, the higher
13 flows get pretty scary.

14 Q. Oh, yeah, I wanted to ask about your wine
15 tours. The Water to Wine tour, how long is that trip?

16 A. About an hour and a half.

17 Q. How far down the river?

18 A. It's about 2 miles. We go from Black Canyon
19 river access point down to the confluence where Oak
20 Creek comes into the Verde River and take out on
21 private land. That's actually the Alcantara Vineyard.
22 That's where the trip ends.

23 Q. That vineyard is right on the Verde River?

24 A. Correct.

25 Q. Do you know if that winery irrigates with

1 water from the Verde River?

2 A. I know they have -- they have a well, so they
3 are -- they're using well water. I don't know. I'm
4 sure that they have to be below the base flow,
5 according to what I've heard.

6 MR. HEILMAN: I think that's all I have.

7 CHAIRMAN NOBLE: Thank you.

8 Is there anyone else who would like to
9 question Mr. Lynch?

10 MS. MONTGOMERY: Mr. Chairman?

11 CHAIRMAN NOBLE: Please come forward.

12

13 CROSS-EXAMINATION

14 BY MS. MONTGOMERY:

15 Q. Good morning, Mr. Lynch.

16 A. Good morning.

17 Q. My name is Susan Montgomery, and I'm the
18 attorney for the Yavapai-Apache Nation. Thank you for
19 being here today.

20 A. Thank you.

21 Q. I really want to talk more about duckies, but
22 I'm not going to right now.

23 A. Okay.

24 Q. But they're very exciting.

25 A. We have them on sale right now too,

1 Christmas, 12 Days of Christmas special.

2 Q. I think I'm pretty much ready to come up.

3 A. Okay.

4 Q. As long as I can get a discount.

5 A. Wine tours too.

6 Q. Definitely.

7 A. Yeah.

8 Q. Okay. So I have a couple of things I want to
9 ask you about here.

10 You first came to the Verde Valley how long
11 ago?

12 A. '92.

13 Q. '92. And you became interested in the Verde
14 River then?

15 A. Yeah.

16 Q. Okay. How did you learn about the conditions
17 on the Verde River when you came to the Verde Valley?

18 A. Well, by -- you know, at the time, you know,
19 you're just personally boating it. This is, of course,
20 the beginning of the internet and all kinds of
21 information. But as, you know, the online information
22 became more available, looking at, you know, getting
23 the USGS stats on what's here, what's there. But
24 primarily physically doing it, you know, going out and
25 boating all these different spots.

1 Q. So but you said this is also the age of the
2 internet. So you did take advantage of the internet;
3 you started using the gage data, things like that?

4 A. Once I got a computer.

5 Q. Yeah, okay.

6 A. I was a boatman for a lot of years.

7 Q. Yeah, sounds like --

8 A. Not a lot of computers out there.

9 Q. Sounds like you're very experienced today.

10 A. Yeah.

11 Q. Or at least with duckies, and canoes perhaps.

12 So did you also, in understanding or getting
13 to learn about the Verde River, did you look at any
14 guidebooks or any of those sort of things?

15 A. Not much really existed that you could find
16 around here at that time. Eventually, yes. And I
17 can't remember who, what, where, when, or how, but
18 there was a guidebook that a gentleman created. I
19 think his last name was Slingenluff or Slingluff. And
20 that became like the -- that was the only guide at the
21 time, and that became like the Bible. Now there's a
22 bunch of different stuff. You can get online about the
23 entire river corridor.

24 Q. So nowadays it's very accessible to find
25 information about the river?

1 A. Getting better.

2 Q. Yeah.

3 A. You know, we're coming out with an app, a
4 Verde River map, you know, that you can have on your
5 phone that will tell you exactly where you're at,
6 what's coming up, where you've been.

7 Q. So is it an app or an app with a map?

8 A. Both, I couldn't believe, according to what
9 I'm hearing. This is all being put together right now
10 by American Rivers, and a lot of this is actually being
11 sponsored by the Walton Family Foundation, which has
12 made the Verde River one of their top ten projects.

13 But everything that's going on out there
14 right now is happening because of huge grants that are
15 being written, and this is being funded primarily by
16 the Walton Family Foundation.

17 Q. Making the river even more accessible?

18 A. And making the communities vibrant along that
19 river corridor, letting them realize look at what
20 floats through your backyard. How many river towns in
21 Arizona are there? Anybody know?

22 Q. Not too many.

23 A. Yeah. You know, Clarkdale, Camp Verde.

24 COMMISSIONER ALLEN: Yuma.

25 THE WITNESS: Yeah, Yuma, there you go.

1 I didn't think about Yuma. Okay, you got that one.

2 BY MS. MONTGOMERY:

3 Q. So there's Yuma.

4 A. Yeah, and there's Winkelman. There's Hayden.
5 There's -- yeah, that goes right through there. But
6 there's not a whole bunch.

7 Q. Okay. So let me ask you, before -- it sounds
8 like one of your concerns for your business is the
9 safety of your customers.

10 A. Uh-huh.

11 Q. So before you go out on a river trip, what do
12 you do, and do you use the internet, do you use
13 technology, do you look at gage data? Tell me a little
14 bit about what you do before you take your customers
15 out on an average trip.

16 A. Yeah, we're weather junkies. We're weather
17 and river flow junkies. So all of our management
18 staff, guides have access to -- we post every day what
19 the river flows are, what's to be expected; of course,
20 you know, all the conditions that are coming about.
21 We're looking at radar, during the monsoon season
22 particularly, what's coming over that hill, where's it
23 going, what's happening here.

24 And then, you know, we have safety talks, you
25 know, every morning with our crew of guides that are

1 going out on, you know, what's happening today, what's
2 to be expected, particularly in the more sensitive
3 times of high water.

4 And then we also have these conversations, we
5 have a whole safety talk with our customers, you know,
6 about what's going on today, how to paddle, you know,
7 what to do if this happens, that happens.

8 Q. You said that 80 percent of the trips that
9 you take are guided trips; is that right?

10 A. Uh-huh.

11 Q. Why do you think people would like a guide
12 when they go on the river?

13 A. Good question. Good question. I think a lot
14 of it is, you know, people come out to the
15 intermountain west and they think it's pretty wild.
16 People come out of the cities and, you know, you come
17 into places you haven't known, and if you're not a
18 boater, if you're not into this as a hobby, you know,
19 where am I going, where do we get out, what are the
20 conditions, what's around the corner, why am I here?

21 Q. And all of those are things that, for those
22 individuals, it's better to have a guide than just
23 striking out on their own?

24 A. Well, you know, they could definitely do it
25 on their own, because we rent a lot of boats to people

1 who just go out and do it on their own because they're
2 shopping for price and they feel like they can do it,
3 and they can. And they'll have a great time and
4 there's no issues out there whatsoever; but, then
5 again, you know, you're doing all your own work.

6 Q. And you said that that's what 20 percent of
7 your business is, folks that rent stuff, including
8 tubing?

9 A. Right.

10 Q. Okay. And I want to ask you a little bit
11 about tubing.

12 A. Sure.

13 Q. What is tube tracking?

14 A. TubeTracking Pros. Check this out. There's
15 a company out of Ontario, Canada that made these.
16 They're like little baby kayaks.

17 Q. I like this.

18 A. It's unbelievable. They have a backrest on
19 them. They're just a little bit bigger than a tube,
20 but you can actually sit in them. You can lay down.
21 They come with a paddle so you can navigate. You know,
22 you're just not going with the flow. You now can go,
23 oh, I want to be over there. Okay, I'll paddle over
24 there. But yet they're not much bigger than, let's
25 say, a tube, a regular, you know, inner tube.

1 Q. So they're like an inner tube; they're just
2 more high-tech?

3 A. Yeah. Yeah, exactly, and way cool. People
4 love them. I mean just so we're -- that's what we use
5 nowadays is the actual TubeTracking Pro.

6 Q. And that's different than a ducky, but it's
7 also part of your stable of things that you use for
8 customers?

9 A. Yeah.

10 Q. They bump over a rock pretty good?

11 A. Oh, yeah. I mean they're tough.

12 Q. Yeah.

13 A. They're burly. We beat the hell out of them.

14 Q. And they're made out of what sort of
15 equipment? Is it a rubber?

16 A. Yeah, and I really couldn't tell you what the
17 bottom of those things are. They're some kind of a,
18 you know, PVC fabric that allows it to be very burly,
19 but can expand and contract with the inflation of the
20 tube.

21 Q. So it's burly and high-tech all at once?

22 A. You bet.

23 Q. All right. When you go out, when your guides
24 take folks out on the river and you've had your safety
25 talk, you've checked the internet and these sort of

1 things, what do your guides take with them on the river
2 to ensure the safety of the passengers?

3 A. Well, we take, of course, a first aid kit, a
4 patch kit for the boat, extra pump. We'll take an
5 extra life jacket, an extra paddle. They'll have extra
6 water and their cell phone.

7 Q. Do you take GPS or anything like that?

8 A. No. No.

9 Q. Know the river pretty well there, so...

10 A. Yeah, we're not -- you know, we're really --
11 I mean even though people think we're in the middle of
12 nowhere, you know, we're -- a lot of times we're right
13 next to the road. They just don't see it.

14 Q. You're actually somewhere?

15 A. Yeah.

16 Q. Okay. I'm going to skip around now just a
17 little bit.

18 A. Okay.

19 Q. When you were testifying, you're talking
20 about the spring runoff, and you mentioned some concern
21 about hypothermia?

22 A. Uh-huh.

23 Q. Tell me a little more about that.

24 A. Well, you know, when we have the spring
25 runoff, if people have what we call an unauthorized

1 out-of-boat experience, you know, highly unauthorized.
2 That's not in the brochure. Why did you do it?

3 It doesn't take very long to be in that
4 water, and when that water is booking, you know, you've
5 only got a very small period of time that you need to
6 get to that person and get them out of those clothes
7 and get them warm.

8 Q. Because of the hypothermia fear?

9 A. Oh, yeah. The spring, I mean the water is
10 cold. It's just -- it's snowmelt.

11 Q. Sure, sure. Have you ever had that happen?

12 A. Oh, yeah. It's happened to me, many times.

13 Q. Really?

14 A. Oh, yeah. I mean and you just -- when
15 that -- you don't -- it's so hard to describe, because
16 you don't really realize, until it happens to you, that
17 your whole body goes into survival mode. So you lose
18 the use of your legs and your hands. You can't even
19 swim. You can't stand up, because all the blood went
20 to save the vital organs. So, boy, is it -- yeah, it's
21 wild.

22 Q. Now, when you -- for example, in that
23 instance, were you wearing -- what sort of clothes were
24 you wearing to be --

25 A. I was in a wet suit.

1 Q. Oh, you were.

2 A. I couldn't get back in the boat.

3 Q. I see.

4 A. And I mean the water was ripping, and it's
5 just dragging you down the river, and you don't want to
6 let go of the boat, but you can't get into the boat,
7 but you can't get to shore either.

8 Q. Eeh.

9 A. Yeah.

10 Q. So let's talk about this wet suit. So the
11 wet suit is, what, like a neoprene base or -- I'm not a
12 wet suit person, so...

13 A. Yeah. Yeah, they're -- they come in
14 different thicknesses.

15 Q. Yeah.

16 A. You know, and they're very, very good, but
17 they're not meant for you to be in the water very long.

18 Q. Right.

19 A. You know, they're meant to give you an
20 initial, but I mean this was a big swim. I was
21 probably in that water for 20 minutes.

22 Q. Wow.

23 A. And I couldn't stop my boat.

24 Q. Did you have other equipment on when you
25 were -- do you wear a helmet, by the way?

1 A. Yeah, at that time we did, yeah.

2 Q. Yeah.

3 A. We had a helmet, and I had my neoprene. I
4 had an outer shell, you know, an entire splash outfit
5 on, boots, you know, all the gear. I mean I do this,
6 so we're professionals at it when we go out and do
7 these weird things.

8 Q. And that's pretty much what all your guides
9 where, that sort of equipment, the helmet, the --

10 A. At higher flows, yes.

11 Q. At higher flows?

12 And at lower flows, do your guides and/or
13 your passengers also wear helmets?

14 A. No. No, it's not, you know, required, by any
15 means; but we do make them available. You know,
16 there's some people nowadays they won't do anything
17 without a helmet. You know, and some parents go, no, I
18 want him in a helmet because I know what I does. He'll
19 be out of this boat.

20 Q. I would probably have to have a helmet.

21 A. Yeah.

22 Q. I wanted to ask a little bit about your
23 business, and maybe you can help me understand this a
24 little better. You said you had 18 to 20 employees?

25 A. Uh-huh.

1 Q. And Sean Hood, Mr. Hood, was asking about
2 this a little bit, so I just need to make sure I
3 understand.

4 Is that 18 to 20 employees solely for the
5 rafting business, or is that also folks that you use to
6 drive the vans around for the wine tour or --

7 A. Everything. This is reservation staff. This
8 is guides. This is shuttle drivers, managers. That's
9 the whole operation.

10 Q. So some percentage of these employees
11 actually work and do things not involving boating,
12 per se?

13 A. Right. There's a lot of stuff behind the
14 scenes that has to happen in order for all this to go
15 together seamlessly.

16 Q. Now, do you also have a cafe or cafe in
17 Clarkdale; is that right?

18 A. Yeah, we do.

19 Q. So do you have employees for that as well?

20 A. Correct.

21 Q. Okay. And that's also part of your business
22 structure, or is that a separate thing?

23 A. That's a separate thing, but it's, you know,
24 the same basic. The same basic; you know, it's part of
25 my business structure.

1 Q. Keeps you going?

2 A. Yeah.

3 Q. Okay. Are you running the river right now?
4 I heard -- at one point I heard you were, and then I
5 heard you weren't, so...

6 A. Well, we're doing the Water to Wine stretch,
7 which is a stretch of the river that we're doing it on
8 Thursdays, Fridays and -- no, Fridays, Saturdays, and
9 Sundays. We just started it this year to see how it
10 takes off, because it's not a wet stretch of the river;
11 people aren't getting wet.

12 Our other stretches of the river up in
13 Clarkdale and down at Camp Verde, you know, you've got
14 places where people are going to get wet. And the
15 Water to Wine stretch they don't get wet, and it's more
16 of an adult trip, and we found that, you know, people
17 are -- we are getting a few people that want to do it
18 in the wintertime. I mean if you come from Minnesota,
19 you come from Canada, this ain't winter.

20 Q. Seems like winter to me.

21 A. Oh, I know. Arizona people stop coming.
22 They go on the wine tour.

23 Q. Maybe you said this, but who asked you to
24 participate in this proceeding here?

25 A. Who asked me to participate. Eddie Slade.

1 Q. And who is that?

2 A. That gentleman right over there.

3 Q. And how did you come to know him?

4 A. He looked me up as someone who's running the
5 Verde River and, you know, to get some back -- you
6 know, get an understanding of who's up there doing
7 something with a viable, you know, business that's
8 successfully, you know, navigating the river
9 year-round.

10 Q. Let me just see what else I have here.

11 Oh, I wanted to ask you. You were talking
12 about impediments in the channel. I'm not going to ask
13 about the moving the rocks around. I think that was
14 asked about. But I do want to ask you a little bit
15 about this.

16 It's my understanding there's car dams or
17 some other things in the river that humans have put
18 into the river. Does that affect -- do you know if
19 that's true?

20 A. Well, I wouldn't say car dam. There's very
21 nasty, nasty, nasty, nasty diversion dams that are
22 bringing the water into the irrigation canals that are
23 not very pretty, and they just use like rubble from
24 destroyed buildings, parking lots, and there will be.
25 There's metal in them, you know, there's rebar, there's

1 this, there's that. We have had, you know, many
2 instances where we've talked to people who have damaged
3 their gear and equipment because they've gone over them
4 and didn't see them at different flows.

5 Q. Okay.

6 A. But having any kind of a car dam, no.

7 But I know there's places along the river
8 that people have put old cars as erosion control.

9 Q. Erosion control.

10 A. Yeah.

11 Q. And does that affect your ability to boat or
12 ducky or whatever we call it?

13 A. No. At the times I've gone past them, I've
14 never had any issues.

15 Q. And you said you've seen canoes going by when
16 you're out there?

17 A. Uh-huh.

18 Q. Are those fully loaded? Do you see a lot of
19 gear in those?

20 A. Not really. The stretches that we boat tend
21 to be more like the day stretches. There's not like a
22 lot of places to camp out, although people do. You
23 know, they do come down and camp out. I just don't
24 really see a lot of those guys.

25 Q. But the most you would see would be some

1 camping gear and an ice chest, perhaps?

2 A. Right.

3 Now, those that are going to be running down
4 to the multiday stretch that goes down to Childs and to
5 Horseshoe, you know, those guys are going to be fully
6 loaded for anywhere from a five to seven-day trip.

7 Q. With like high-tech camping gear type stuff?

8 A. Well, some people, yeah.

9 Some other people you're just kind of, oh, my
10 God. Okay. Okay, have a good time. Everybody has an
11 adventure.

12 Q. I'm excited about this.

13 MS. MONTGOMERY: I think that's all I
14 have. Thank you.

15 THE WITNESS: Thank you.

16 CHAIRMAN NOBLE: Is there anyone else
17 who would like to ask some questions of Mr. Lynch?

18 COMMISSIONER HORTON: Mr. Chairman?

19 CHAIRMAN NOBLE: Yes.

20 COMMISSIONER HORTON: What is the name
21 of your cafe?

22 THE WITNESS: Verde River Yacht Club
23 Cafe.

24 COMMISSIONER HORTON: And that's in
25 Cotton --

1 THE WITNESS: Clarkdale.

2 COMMISSIONER HORTON: Clarkdale.

3 CHAIRMAN NOBLE: Come on up.

4

5 CROSS-EXAMINATION

6 BY MR. MORIARTY:

7 Q. Hi. My name is Tom Moriarty, and I'm an
8 attorney with the Fort McDowell Yavapai Nation, and I
9 just have a few questions. Some of the things you
10 mentioned bring me back to when I was younger, but...

11 First, I would like to talk about the dynamic
12 river. You mentioned there are flash floods. They
13 occur in the summer?

14 A. Yes.

15 Q. They occur in the winter?

16 A. Yes.

17 Q. They occur in the spring?

18 A. Correct.

19 Q. And because you're having a flash flood on
20 one stream source into the river, does it mean there's
21 a flash flood all over the valley, all over the river?

22 A. No.

23 Q. So you'll get Oak Creek Canyon flooding,
24 let's say for whatever reason. A cloud burst drops an
25 inch of rain up there. It's going to create a flash

1 flood down the river?

2 A. Correct.

3 Q. Okay. Here in the valley we recently had a
4 very good rainfall, one event. We had up to 3 to
5 5 inches spread across the valley in a single day.
6 What kind of result will happen if that had gone up and
7 dumped on Sedona or further upstream?

8 A. You would have seen the same thing that
9 happened down here; you know, a huge water event would
10 have -- I don't think you would have had, necessarily,
11 going over highways and roads, because they're all --
12 most of the bridges are pretty high up. But you would
13 have had -- I know Oak Creek at times can actually
14 breach its banks and start going over the roadway, and
15 they close the canyon up there. That's actually
16 happened several times since I've been there.

17 But it would have been very similar. You
18 know, roads closed, epoch, you know, just natural
19 disasters, destruction along the river floodplain.

20 Q. And when you do have those flash floods at
21 various sources along the Verde River, for instance,
22 down here in the valley at Fort McDowell, Sycamore
23 Creek will flood --

24 A. Yeah.

25 Q. -- intensely.

1 It moves a lot of material down towards the
2 Verde River or into the Verde River when it floods
3 heavy. You mentioned that you remove obstacles from
4 the channel?

5 A. Correct.

6 Q. When you remove obstacles from the channel,
7 such as boulders, logs, or other items that have washed
8 into the river, by removing the series of obstacles, do
9 you also tend to make that channel move faster and make
10 it deeper?

11 A. Correct.

12 Q. So you're modifying the river every time you
13 do that?

14 A. Correct.

15 Q. So you wouldn't call it its natural state
16 before humans?

17 A. Run that by me again, now?

18 Q. Would you say that the river is -- when you
19 are modifying the river, it wouldn't be what you would
20 call in its natural -- original and natural state?

21 A. No.

22 Q. If you -- I have not seen those inner tubes,
23 by the way, but that will interest me.

24 But if I'm floating down the Verde on one of
25 those inner tubes and I run into a sandbar or a gravel

1 bar and sort of ground, I can push off with a paddle?

2 A. Right. Yeah.

3 Q. Can I get out of the boat at that point --

4 A. Sure.

5 Q. -- and put it back towards the channel and
6 get back in?

7 A. Yes.

8 Q. So it's not going to wash me away during the
9 normal course of the --

10 A. No, not at --

11 Q. So I'm talking water 6 inches to 10 inches
12 deep?

13 A. Correct.

14 Q. Have you ever seen -- well, you were in
15 Alaska. Did you ever see the large flatboats they
16 hauled goods on in Alaska?

17 A. Yeah, up and down the different -- yeah, the
18 interior, where the barges move up and down all the
19 time.

20 Q. Could you float one of those on the Verde?

21 A. A barge?

22 Q. (Nodded.)

23 A. A barge like that? No.

24 Q. If you had a flatboat, a wooden flatboat --
25 you're familiar with a -- well, growing up in Georgia,

1 we used to call it duck boats, you know, the
2 Craftsmans, aluminum.

3 A. Yeah.

4 Q. Yeah. You used them all over Missouri too,
5 I'm sure.

6 A. Sure. Yeah.

7 Q. You used them on lakes, you used them on --

8 A. And they're used on the Verde.

9 Q. Yeah. But if you fully loaded that with
10 goods to transport, let's say, downstream, would you be
11 able to do that in mid summer?

12 A. Not today. Not with the river flows that
13 we're experiencing today, no.

14 Q. And, historically, if a river has marshed
15 out, and I don't know if you've seen this in Missouri
16 with the large creeks, or creeks in some parts of the
17 world, large creeks where they marsh out and encroach
18 into the adjoining land that's generally owned by a
19 farmer or somebody, have you ever noticed them go in
20 and clear out those channels to remove the marshes?

21 A. Well, I'm not really sure. Could you
22 requestion that? I'm kind of confused about marshes.

23 Q. Well, if you have a large stream flowing --
24 like Woods Ditch, are you familiar with that along the
25 Verde?

1 A. No.

2 Q. No?

3 A. Woods Ditch? Where's that at?

4 Q. Well, if you're not familiar with it, we
5 won't go into it.

6 A. Okay.

7 Q. But if you have an area that marshes out and
8 you excavate it, excavate the channel, that is to drain
9 the marsh.

10 A. Okay.

11 Q. Have you ever seen anything like that done?

12 A. No, not to my knowledge.

13 Q. So you never saw on the coast, for instance,
14 in Alaska where they dredge the sand out of the river
15 so that there will be a flow out of the river mouth
16 into the ocean?

17 A. No.

18 MR. MORIARTY: Thank you. That's all I
19 have.

20 THE WITNESS: Okay.

21 CHAIRMAN NOBLE: Thank you,
22 Mr. Moriarty.

23 Is there anyone else who would like to
24 question Mr. Lynch?

25 MR. SLADE: I have some follow-ups on

1 redirect.

2 CHAIRMAN NOBLE: Eddie. I think that's
3 what he called you.

4 MR. SLADE: That's right.

5 CHAIRMAN NOBLE: Would you like to
6 question Mr. Lynch?

7 MR. SLADE: I would.

8

9 REDIRECT EXAMINATION

10 BY MR. SLADE:

11 Q. Howdy.

12 A. Hi.

13 Q. I want to return to some things that you were
14 asked on cross, and the first thing I want to try to
15 understand -- I think it's confusing for all of us --
16 is this snowmelt period.

17 And is it correct, or if you could just
18 explain, is it a couple-month period, and then within
19 that period there are a few weeks where it's more like
20 a flood period; but other than that, during that one,
21 two, three-month period, it's just generally higher
22 flows than normal, but still not flood flows? Is that
23 how you would describe that?

24 A. Run that by me again, now?

25 Q. Let me ask you. Can you describe the

1 snowmelt period?

2 A. Okay.

3 Q. From when it begins to when it ends?

4 A. Okay.

5 Q. And what's going on with the flows during
6 that period?

7 A. Okay. Well, most of the snowmelt is -- well,
8 it's happening all the time once we start getting the
9 big storms, and we're about ready to get one, from what
10 I understand here, in the next couple days. So
11 everybody pay attention to the gages.

12 Once everything starts, you know, melting, it
13 does create a long higher water period in the
14 wintertime because, you know, the snows melt. What
15 happens is it melts during the day and then it freezes
16 again at night as soon as that temperature hits.

17 So you just have this intermittent flowing
18 throughout the entire wintertime of, once we do get
19 into the snow period, of just constantly melting during
20 the day, freezing at night. So it creates a nice flow
21 on the Verde River throughout the winter as long as
22 we're getting a winter. And this will last well into
23 April in some years.

24 Q. And that's a boatable flow?

25 A. Yeah.

1 Q. Is it unsafe? Would you take your --

2 A. No, those are the funnest times because
3 that's when you get -- you know, you get safe flows,
4 it's fun, it's sporty, and that's when -- you know,
5 your boating community, that's when everybody is out
6 here boating.

7 Q. And what's the range that you would estimate
8 that occurs during the year, from what month to what
9 month?

10 A. Probably, you know, it seems to be a January
11 type of an event. Of course, it just depends on, you
12 know, the winter, but it depends to be like January,
13 February, and, again, into March and April at different
14 times.

15 Q. And then there's a period within that where
16 you might have more dangerous flow?

17 A. Yes.

18 Q. And can you talk a little bit about how long
19 that is and what's going on during that time?

20 A. Okay. Well, again, you know, it depends on
21 the winter we get. But the last big winter event we
22 had I think was 2009, where, you know, we just started
23 getting back-to-back storms up in Flagstaff, but a
24 tremendous amount of snow down on the lower benches;
25 I'm saying things around, say, 6,000, 7,000 feet. And

1 they were cold and it stayed. A little bit of it was
2 freezing and coming down. We had nice flows.

3 But then behind it comes -- after several of
4 these came along, here comes a warm front, and it
5 wasn't snow that was hitting the ground up there; it
6 was rain, and it just melted everything. And that's
7 when we have our epoch, epoch flows on all the rivers
8 out here, is when you have that big snow events
9 followed by a warm system that comes in and, bam, here
10 goes all that low-level snow is just running off like
11 crazy.

12 And I believe it was on that -- we just were
13 in that pattern. About every four to five days
14 something was coming through, either cold and snow or
15 it was warm and rain. So it just -- it kept the river
16 popping all spring long, one of the longest I've ever
17 seen.

18 Q. The longest you've ever seen?

19 A. Yeah.

20 Q. And how long was it?

21 A. Probably about two months.

22 Q. Usually, how long is that popping period?

23 A. You mean of massive flows?

24 Q. Right.

25 A. Hard to tell. You know, I mean it just

1 depends on the event. But, you know, a lot of times
2 when -- without having the consistency of snow, snow,
3 snow, rain, snow, snow, snow, if we just get snow,
4 snow, snow, then we have a massive warm front come in,
5 melt it all, it could be anywhere from -- the big event
6 could be, say, anywhere from three to four days of
7 thirty, forty, 50,000 cfs.

8 Q. Someone asked you a question about developed
9 river access points. When you were thinking of
10 developed, did you mean river access points with
11 bathrooms, with paving? What did that mean to you?

12 A. Well, on the mighty El Rio Verde, it's pretty
13 much, yeah, does it have a -- can I park there, can
14 we -- is there access to the river, can I get my boat
15 there, is there -- again, is there parking.

16 Not all the spots, you know, have restrooms
17 and water and things like that. There's only one or
18 two that have any of that stuff whatsoever. But,
19 primarily, up there most of our river access points up
20 there are very rustic, should we say. You have to be
21 very creative.

22 Q. Do you think people back at statehood, 1912,
23 could have accessed the river without those paved
24 developed places?

25 A. I don't know what the area would have looked

1 like, you know, back in the -- but you can always
2 access -- primarily, as a boater, you're looking for
3 confluences. Those tend to be leveled out, great place
4 to put in along sandbars. Anyplace where there's a
5 merging of two bodies of water tend to be places that
6 boaters will go to because it's more cleaned out,
7 better accessibility. The confluence tends to always
8 be that.

9 Back in those days, of course, wherever
10 there's a bridge. A bridge is another thing. If
11 you're getting to back in the old days, before you had
12 improved river access lots, all your river people went
13 to a bridge, and you just boated to the next bridge.

14 Q. You were asked some questions about
15 predicting the flows, and in the modern age we've got
16 the internet. You've been boating for a long time.
17 What did you do before the internet? Did it prevent
18 you from boating? How did you know when you could
19 boat?

20 A. Well, a good question. A lot of times,
21 particularly the outfitters that we worked with, they
22 would make a call, you know, to the Forest Service.
23 They would make a call to whatever, the river rangers,
24 finding out what water conditions. Particularly if
25 something -- an event was coming up and they didn't

1 have any connection to all this stuff, they would
2 actually go to the resources.

3 Sometimes, in some communities, they post it
4 in the paper. Particularly up in Idaho I saw that,
5 where they -- you know, because these are river
6 running; this is what people do. It's part of their
7 lifestyle. So they made that stuff pretty accessible.

8 River access points, they would also post the
9 flow today, what are conditions expected for in the
10 future, what to watch out for.

11 Q. Can you personally predict the flow generally
12 across a year, whether it's seasonally or even month to
13 month? Do you have an understanding of when there will
14 be high flow, when there will be low flow, based on the
15 weather, based on the time of year?

16 A. Yeah, I'm pretty good at it now. Yeah, I can
17 look at, you know, what the snowpack is. Of course,
18 I'm using technology. I'm looking at all the gages up
19 on top of the snow-gathering points, what kind of --
20 what's the soil moisture content. And, of course, you
21 know, you can find this. They'll give you predictions,
22 what's going on, with a click of the button. They'll
23 go, oh, we think it's going to do this.

24 Q. Would you have any indication, if there were
25 to be a flood, just based on your personal experience

1 of the weather, would you know, okay, I better get off
2 the river now; it seems like there might be a flood
3 coming, if there's a rain, a storm coming through?
4 Would you know that?

5 A. Well, I know something's going to happen,
6 yeah; but we don't know what the weather's going to be.
7 And a lot of times where we're boating, at a lot of
8 these side canyons it takes a day or two for all that
9 water to come down to where we're at. You know, the
10 stuff that happens in Oak Creek doesn't arrive in Camp
11 Verde for a couple days. West Clear Creek and Beaver
12 Creek, shorter drainages. They'll tend to pop quicker.
13 But a lot of that stuff is not going to happen while
14 we're on the river.

15 Q. If you were on the river for a couple of
16 days, would you slowly start to see the flow rise?

17 A. Oh, yeah.

18 Q. So you would have some time to get out of the
19 way?

20 A. Yeah, you're going to start seeing debris
21 immediately. You're going to see -- I mean, you know,
22 you're going to start seeing flotsam, all the stuff
23 that's coming ahead of the big event.

24 Q. And is the Verde different than other
25 Southwest rivers or Western rivers in its capacity to

1 flood like it does?

2 A. Is it different? No. I mean it's very
3 similar to, you know, the majority of your Southwestern
4 rivers, the Salt the Gila, very similar.

5 Q. What about the Green?

6 A. Well, the Green runs through the Colorado
7 plateau. You know, they've got a whole different thing
8 up there.

9 Q. You've been around a lot of boaters. Do you
10 think all of them check the internet before they go out
11 to boat?

12 A. Yeah, I would say pretty much everybody, you
13 know. Yeah, you're always going to want to find out,
14 you know, what water conditions are currently at and
15 then get any kind of forecasts you might look at, go
16 and find, you know, what's the weather going to be like
17 for the next day, two days, three days, five days, you
18 know, whatever. And, of course, nowadays you can get
19 all this on your phone almost everywhere.

20 Q. So it's the safe, precautious, precaution
21 thing to do at this point --

22 A. Right.

23 Q. -- with the technology that we have?

24 Do you think Lewis and Clark did that back in
25 the day?

1 A. I'm sure they had -- you know, with their
2 guides and, you know, the people that they had on that
3 trip, I'm sure that those guys had a great
4 understanding of what lie ahead of them, versus -- you
5 know, look at what they did. Oh, my God. You don't
6 think these guys didn't have intelligence out there all
7 the time? I mean they ran that thing successfully
8 because they did it safely.

9 Q. So even without the modern technology, there
10 were safe ways to navigate rivers --

11 A. Oh, yeah.

12 Q. -- back around statehood?

13 A. You bet.

14 Q. You talked a little bit about the Walton
15 family grant when you were asked some questions about
16 the Verde River.

17 Any idea why the Walton family is investing
18 in the Verde?

19 A. Well, this is just what I'm -- I'm not privy
20 to all the details or anything like that; but from what
21 I've gathered, you know, they have family members that
22 live in Flagstaff that are on the board, and they're
23 boaters. And when they were looking at what can we do
24 with this foundation, these resources, water in the
25 Southwest became one of those critical things they

1 thought they could help with.

2 So this is how I think it all started, with
3 the family members living in Flagstaff, making the rest
4 of the family and board members aware of, hey, here's
5 this precious resource, that if we don't protect it and
6 figure a way to minimize the human impact on it, we're
7 going to lose it.

8 Q. So the Walton family is working on keeping
9 water in the river and accessing that river corridor;
10 is that correct?

11 A. Yes, everything that has to do with the
12 health of the Verde River and the communities that are
13 a part of that river.

14 Q. What would happen, do you think, to the Verde
15 River communities, including your own business, if you
16 couldn't go down that river corridor?

17 A. I would be drinking a lot of wine. We'd be
18 doing a lot of wine tours.

19 Yeah, I mean, yeah, if you can't do it, you
20 know, we're out of business.

21 Q. And would it hurt the community as well,
22 apart from your business?

23 A. Well, there's only one reason why we live
24 there, and it's not because it's beautiful and its
25 great temperatures. It's because there's water. End

1 of story. That's the only reason why anybody lives
2 anywhere in Arizona.

3 Q. You were asked some questions about safety
4 equipment, and nowadays you're taking a lot of safety
5 equipment for your operation because you're doing it
6 commercially. Would you expect experienced boaters
7 also to have safety equipment?

8 A. Pretty much. You know, people who are
9 professional guides, you know, we have all this gear.
10 We buy all this gear. You have to have it as a guide.
11 So if you're in the craft, you're going to have this
12 stuff and, yeah, you're going to take it with you.

13 You might not go extreme. You know, you
14 might -- not everyone will bring it with you. You'll
15 find one person in that party that will have a first
16 aid kit, one person in that group will have a spare
17 paddle, one person in that group will have a spare
18 pump. Instead of nine people showing up with the same
19 stuff, you can -- you know, it just depends. A lot of
20 the stuff they make is pretty small now and compact and
21 doesn't take up a lot of space; but when you're
22 boating, you've got minimal space to use.

23 Q. So in your experience boating over the years,
24 20 years, 30 years, people have always brought safety
25 equipment, whether they're on a guided trip or whether

1 they're doing it recreationally or in canoes or boats;
2 is that correct?

3 A. Well, I mean your professionals will. People
4 who are more recreational users, they really don't know
5 what they need until you have that, you know, until you
6 have that first event and you go, oh, my God, I don't
7 have a paddle. Oh, my God, how am I going to fix this
8 boat? Oh, my God, I forgot my water.

9 Q. So someone who's been down the river once,
10 the second time they're going to be bringing some
11 different things because they've got some experience?

12 A. Most times, yes.

13 Q. Otherwise they might go the way of Darwin?

14 A. Right. I've seen some pretty interesting
15 things.

16 Q. You were asked some questions about
17 hypothermia. Is that danger unique to the Verde?

18 A. No. No, that's inherent in all rivers at
19 that time of year. When the snow melt, it's cold, and
20 you have the big unauthorized out-of-boat experience,
21 it's -- yeah, it can happen anywhere.

22 Q. You were also asked some questions about your
23 employees, and I don't think you gave a specific
24 number, but how many of your employees, of that 18 to
25 25, are guided commercial guides?

1 A. Oh, probably 12 to 15 would be commercial
2 guides. And we would have a couple of shuttle drivers
3 that would be dedicated to moving, you know, that have
4 good driving records. And then the rest would be
5 reservation staff, cafe, managing.

6 Q. You mentioned seeing some fully loaded canoes
7 when asked about seeing canoes on the river. Any idea
8 of how much weight is in one of those fully loaded
9 canoes?

10 A. Well, you know, people who are going out on
11 an overnight trip, you know, think of all the sleeping
12 gear, food, cooler, you know, things of that nature.
13 You know, they would probably be putting in there maybe
14 100, 150 pounds.

15 Q. And that's not including their own weight?

16 A. No.

17 Q. Could they fit more?

18 A. In a canoe?

19 Q. (Nodded.)

20 A. Don't know. I'm not a canoer.

21 Sometimes you look at these things and you go
22 like, oh, my God, you know, can they -- they're stacked
23 to the ceiling. They're stacked all the way to the top
24 of the canoe. It's like a will they make it.

25 Q. Do they make it, in your experience?

1 A. You know, I don't know. I see a lot of
2 people that's kind of -- (Indicated.) -- have a great
3 time.

4 Q. But you've seen a lot of them over the years?

5 A. Oh, yeah.

6 Q. So you think they made it?

7 A. Yeah. Well, you can tell. You can tell
8 pretty quick. When people know what they're doing, you
9 know, how they rig their boat and how they rig their
10 gear, you know, what they brought with them, you know,
11 how they're doing everything, you can tell real quick
12 that, okay, you know, that's a boatman.

13 And then you can tell the other ones that are
14 still trying to figure out which way do we go when we
15 get in the water; what are we doing; what's this for?
16 So it can be -- everybody is pretty comical.

17 Right now I've got people calling up that
18 want to canoe the Verde River in the wintertime that
19 have no experience whatsoever. And I just got off the
20 phone with a guy the other day, he wants to go Friday,
21 and I'm trying to educate him and kind of go you need
22 to rethink this. We've got a huge storm coming in.
23 You have no idea where you're going. But if you want
24 to rent -- now, I don't have any canoes, but I'll rent
25 him duckies.

1 And so it's just interesting. You know,
2 people want to have adventure, and who am I to stand in
3 their way if they want to do this. Sure, I'll rent it
4 to you, and be sure and get the map, and this is what
5 you need to wear.

6 Q. Sure. Let's talk about that for a second.

7 Do you think if you're trying to transport
8 goods back in 1912 down the river from Camp Verde down
9 to Fort McDowell or even down to Phoenix, do you think
10 you would talk to someone like you first about the
11 conditions of the river, the time of year, what boat do
12 you think would work? Would that make sense?

13 A. Oh, yeah.

14 Q. And you would give advice to a person like
15 that on --

16 A. Oh, yeah. And I would go do it first, you
17 know, just to see, okay, before I start carrying gear
18 and equipment and, you know, do it. Yeah, go see it
19 before I start charging people to carry gear and
20 equipment, people.

21 Q. Mr. Moriarty asked you about flatboats on the
22 river, and you've said you've seen flatboats on the
23 Verde?

24 A. Yes. I had to think about that.

25 Q. What segments?

1 A. Well, a lot of sections down around Camp
2 Verde. There's a lot of duck hunters down there that,
3 you know, bring down these flatboats and, you know, tie
4 them up and use them as like little mini-blinds all
5 over the place during the duck hunting season.

6 And a lot of locals fish on them. They put
7 little trolling motors and, you know, they'll be going
8 up, and you'll see them all over the place with little
9 trolling motors getting into their little hunting
10 holes. And, again, these are the deeper sections of
11 it.

12 Q. What are the dimensions of those boats, if
13 you can recall?

14 A. Oh, you know, I've seen everything from,
15 like, say, 4 feet wide by 8 feet to pretty substantial,
16 the ones that are probably 14, 15 feet, you know, maybe
17 5, 6 feet wide. You know, some of these guys have
18 chairs on them, you know, for casting out.

19 And, of course, you know, a lot of people buy
20 these boats for duck hunting, and they trick them out
21 with everything they need to get into their little spot
22 and shoot ducks.

23 Q. Do they have any difficulties that you have
24 seen; are they getting caught on rocks?

25 A. You know, I've never hung out and watched

1 them. You know, I've always been doing my own thing.
2 You know, I'm headed this way, I'm headed that way.
3 I'm doing this. I'm boating by them. But I've not
4 witnessed them actually -- other than trolling up and
5 down the pools, I've not seen them going in between.

6 Q. But you see them year after year; is that
7 right?

8 A. Oh, yeah, particularly when it becomes
9 wintertime duck season.

10 Q. And in wintertime, is it correct that that's
11 generally the lowest flow of the year?

12 A. No, no. Winter's the epoch time to go
13 boating. I mean that's when all the water is out there
14 because nobody's -- no plants are growing. Your water
15 users are not doing very much. They're still watering
16 some of the ditches or most of the ditches, but it's
17 just not being -- it's going back into the river versus
18 being pulled out to flood land.

19 Q. So when you say winter, you mean January
20 moving into March?

21 A. Well, it starts at the end of October. You
22 just see it when all the trees stop growing and pretty
23 much the water users, they're stopping. It's just
24 slowing down, and so the water starts filling up there
25 all of November, December, January.

1 Q. So when the water users shut off and the
2 Verde returns to what we might consider its natural
3 flow, that's when you start seeing the flatboats come
4 out?

5 A. Oh, yeah.

6 Q. You talked a little bit about modifications,
7 and you were asked some questions about that. You're
8 making these modifications for the purpose of creating
9 an experience for your customers; is that right?

10 A. Correct.

11 Q. And you're trying to create the most
12 pleasurable, with a little mix of fun and adventure,
13 type of experience that you can; is that right?

14 A. Yes.

15 Q. Is the river still navigable if you don't
16 make those improvements?

17 A. It is, but it's just -- and, again, if you're
18 not a boater, you don't know where to go, you don't
19 know what to do -- I mean someone who knows how to read
20 water can pretty successfully boat it all the time,
21 even with a little water, even if we weren't doing
22 things out there; but if you're not, if you're running,
23 you know, like we are, running a commercial trip, where
24 you've got kids you've got families, no.

25 Q. Just a couple more questions.

1 You mentioned that you wouldn't run a ducky,
2 on a high flow day, Beasley to Childs area. What's a
3 high flow day to you? Is that a flood flow?

4 A. Yeah, this is when it's cranking pretty good.
5 That's like about three -- I've done it. I'm not
6 saying you can't do it. I've just gotten too old. I'm
7 just too scared now. It's scary.

8 Q. What's the flow rate?

9 A. The last time I did it and said I'll never do
10 it again, it was at 3,000.

11 Q. And how many times a year is the flow that
12 high?

13 A. In the wintertime, you know, like I said, we
14 can have some pretty consistent events, you know, and
15 that's when the rafts come out. That's when you want
16 to be in a big boat. That's when the rafts come out.
17 That's when guys are running all the different lower
18 stretches. And, yeah, so that event can be -- can last
19 a couple months, actually, in the wintertime.

20 Q. Were you paid for your testimony today?

21 A. No.

22 CHAIRMAN NOBLE: Now, let's not forget
23 the free advertising.

24 THE WITNESS: Well, yeah.

25 CHAIRMAN NOBLE: Let's not forget the

1 free advertising.

2 THE WITNESS: Yeah, that's right, that's
3 right.

4 MR. SLADE: Well, thanks a lot for
5 coming out and volunteering your time today. That's
6 all I have, Commissioner.

7 THE WITNESS: Thank you.

8 CHAIRMAN NOBLE: Thank you. Are there
9 anyone else that would like to question Mr. Lynch?

10 Mr. Lynch, in behalf of the Commission
11 and everyone else, we thank you for being here and
12 appreciate your testimony.

13 THE WITNESS: Thank you. Thank you very
14 much. Merry Christmas. Thank you guys for doing this.

15 MS. HERNBRODE: Mr. Chair, we do have
16 Don Farmer. We need about, hopefully, five minutes to
17 set up the equipment. I don't know if you want us to
18 start before lunch or if you want to take an early
19 lunch today.

20 CHAIRMAN NOBLE: Let's get started.

21 MS. HERNBRODE: Okay. If we could take
22 a five-minute break or so to get set up?

23 CHAIRMAN NOBLE: We will.

24 MS. HERNBRODE: Thank you.

25 (A recess was taken from 11:29 a.m. to