

## LABOR

## Teamster leaders sued

By Dan Marschall

**T**HE FEDERAL GOVERNMENT, beginning the second phase of its legal offensive against Teamster pension fund abuses, has damaged another prop beneath the tottering administration of union president Frank Fitzsimmons. On Feb. 1 the Labor department named Fitzsimmons and 16 other former trustees of the Central States Pension Fund in a civil suit that seeks to recover millions of dollars in allegedly illegal or imprudent loans.

Under the 1974 Employment Retirement Income Security Act (ERISA), trustees can be held liable for pension fund losses due to wrongdoing or mismanagement. Fund auditors recently found delinquent real estate loans totaling \$178 million. Another \$37.8 million in real estate loans have been written off and could be lost.

The suit, filed in Chicago District Court, also names as defendants Daniel Shannon, the fund's executive director, and Alvin Baron, its former assets manager who has been indicted for allegedly taking a kickback of \$200,000 for arranging one loan.

Targets of the suit include nine current Teamster officials who hold 34 union positions. Five sit on the International Executive Board, the union's highest decision-making body. One of these officials is William Presser, the head of the Ohio Conference, who authoritative sources have long considered an associate of organized crime. His son, Jackie Presser, the country's highest paid union official at \$220,000 per year, is the heir apparent to Fitzsimmons.

The suit follows a two-year investigation into the \$1.6 billion fund, which covers 480,000 participants. The first phase of government efforts was completed last May, when the Labor department forced Fitzsimmons and other trustees to resign and placed control of the fund's assets in the hands of independent investment managers.

The complaint describes 15 transactions that illustrate a "pattern of imprudent behavior" by the defendants. Some loans were made to individuals linked to organized crime, government sources told the *Washington Post*, and were used to bankroll gambling casinos, racetracks and other risky real estate ventures. About 70 percent of the fund's assets are in real estate.

The lawsuit also claims that loans were made to ostensibly legitimate enterprises without any attempt to obtain appraisal of collateral or with unusual agreements to forego interest payments. When some of the borrowers defaulted, the trustees made no effort to collect on the loans.

In a Washington press conference Labor department officials hinted that an out-of-court settlement might be arranged. All the former trustees were bonded by insurance companies, which would be liable for any judgements against them.

Labor Secretary Ray Marshall reportedly denied that the suit is intended to pressure Fitzsimmons to leave office. Instead the government apparently views the suit as the first big test of the pension reform law.

Union reformers contend, however, that it further weakens Fitzsimmons' credibility with rank and filers and reduces his maneuvering space within the union. The suit undercuts Fitzsimmons' denials that fund illegalities do not exist because widespread indictments have not been issued. This may increase the pressure on Fitzsimmons to resign.

Both the Professional Drivers Council (PROD) and the Teamsters for a Democratic Union (TDU) welcome the government's action but find it insufficient. "After many delays and after receiving thousands of letters and postcards from Teamster members calling for action,

Targets of the suit include nine current officials who hold 34 union posts. Fitzsimmons heads the list.

Secretary Marshall has finally acted to recover some of the funds that have been siphoned away from Teamster retirees and families," the TDU said.

TDU points out, however, that those being sued are the same persons who appointed the current trustees. The only way to break this "chain of control," they maintain, is for the Labor Secretary to use ERISA to "sue for an election among rank and file Teamsters and retirees to choose the union trustees of the fund." They further call for all Teamster officials named in the suit to resign or be suspended from all union positions pending trial.

PROD believes that the former trustees are also probably involved in criminal violations and should be indicted. "It took a lot of press publicity, rank and file complaints and congressional testimony by PROD members to keep pressure on the Labor department to file this suit. It will take an equal amount of rank and file pressure to force the Justice department to prosecute," declared PROD staff director Paul Poulos.

A Labor department task force, according to Secretary Marshall, has turned over evidence to the Justice department for possible criminal charges.

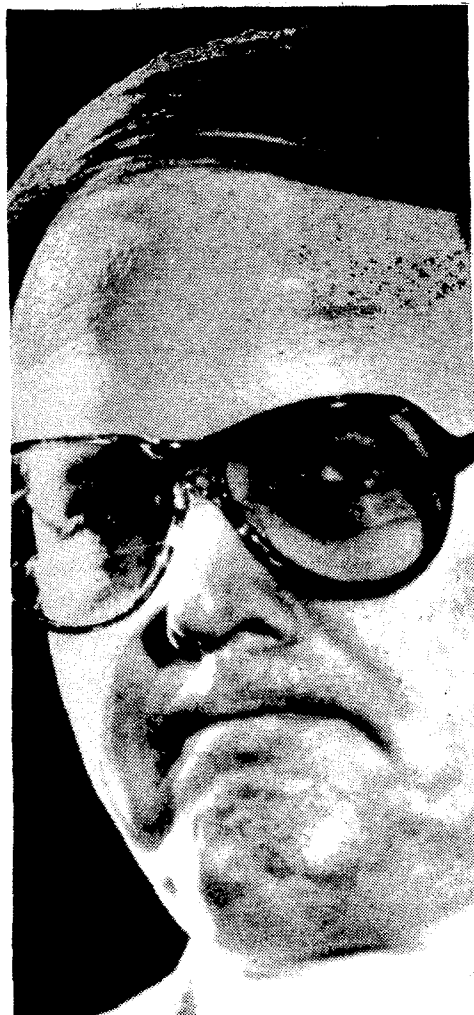
Responding to the suit, Fitzsimmons charged that the Teamster pension fund "had been singled out as a test case"

while other funds are "either fully or partially underfunded and others are in disarray." He agreed to fully answer the charges in court and expressed confidence that the fund is "fully solvent and more than able to meet its obligations through the 20th century."

At the fund's Chicago headquarters director Shannon stated that the suit's allegations are without foundation and are part of a "blatant government smear campaign." Pledging to "disclose the political motives and pressures that lie behind the vicious slander of the government's complaint," Shannon accuses Labor Secretary Marshall and other high-level Labor department officials of misleading Congress by saying that it was not directly involved with choosing the investment managers.

"In fact, there was frequent and decisive participation by the department in that selection," Shannon charges. "For example, the U.S. Secretary of Labor was closely involved in the promotion of Lomas & Nettleton Financial Corporation of Dallas, Texas, as the prime candidate."

The *Chicago Sun Times*, relying on fund sources close to Shannon, revealed Feb. 14 that Jess Hay, the head of Lomas & Nettleton, is a "key backer" of President Carter in Texas. His firm is closely tied to the Mercantile Bank of Dallas, one



In making the announcement of the suit, Labor Secretary Ray Marshall (above) denied that it was intended to pressure Fitzsimmons into resigning, but union dissidents plan otherwise.

of several companies selected to manage the fund's assets. The bank has handled \$60 million in pension fund money since October, sources estimate.

Because of these political connections, Shannon reportedly believes that the Carter administration is attempting to remove him from administration of the fund to "pave the way for political cronies to continue and expand their control of the operations of the pension fund," according to the *Sun Times*.

## WATER

## Arizona Indians fight for water

By Tom Barry

SALT RIVER, ARIZ.

**T**HE CENTRAL ARIZONA PROJECT (CAP), which promises to bring 1.2 million acre feet of Colorado River water to this state's once-arid heartland, is already flowing with bitter controversy. The issue is: Who will have superior water rights—the native Indian tribes who have farmed her for 2,000 years or the non-Indian newcomers in agriculture, the cities and retirement communities?

The \$1.5 billion project, the largest of some 30 federal water projects, is regarded as essential to keeping green the irrigated farmlands and sprawling lawns of Phoenix and Tucson.

The need grows more critical by the day, for each year the state removes some 2.2 million acre feet from its rapidly sinking underground water table to fuel expanding industry, cotton farming and urban development.

However, even as the first 90-mile portion of the 300-mile canal nears completion, four central Arizona Indian tribes have gone to court to assert prior rights to the new water, invoking previous treaties and rulings by the U.S. Supreme Court.

The tribes—the Ak-Chin, Gila River, Salt River and Papago—say that because of the monumental growth of non-Indian agriculture, industry and municipalities, the water table under their own once-productive farmland has sunk almost beyond recovery. They regard the new Colorado River water as their last hope to revive their withering farms and rebuild their traditional economies.

The four Arizona federal suits are only a few of the numerous Indian water rights claims now being contested in the courts.

There are five such claims now in litigation over Columbia River water in the Northwest; five in the Rio Grande Basin; three in the Missouri Basin, and five in the Central and South Pacific Basin.

The Indian claims to the water are largely based on a 1908 U.S. Supreme Court decision that guarantees the Indians priority rights to all the water they require to irrigate their arable land. The ruling, known as the Winters Doctrine, has been applied numerous times since then by lower federal courts, and was reaffirmed by the Supreme Court in 1963.

The Indians charge, however, that in recent years the states and federal agencies have refused to honor the Winters Doctrine and have given priority to municipal and industrial use, while tribal farm lands have dried up.

Cecil Williams, chairman of the Papago Indian tribal council, recalls when his people supported not only themselves, but also nearby communities, by farming. "Today," he said, "the running streams are gone, and the underground basin has receded at an alarming rate. Wells have gone dry, and the cost of pumping the remaining wells has become exorbitant."

The reason, the Papagos say, is that the city of Tucson has 20 wells adjacent to the Papago reservation, and mining and agricultural interests also have wells around it. These wells pump water out of the ground continuously.

The Ak-Chin tribe, west of Phoenix, has seen its water table sink from 60 feet below the surface in 1923 to 400 feet below today. "In recent years the water level on our reservation has dropped 20 feet every year," said tribal spokesperson Leona Kakar.

As a result the Indian lands have become drier and expensive, if not impossible to farm. Nevertheless, Arizona water planners have given priority for CAP

water to municipal, industrial and private agricultural use.

"All the water in the Colorado, and all the water that falls from God, would not satisfy those Indians," says John Linksmiller of the Arizona Water Commission. "Their water claims are the damndest pack of lies I've heard."

Last year, after lengthy negotiations, the Interior department allocated 20 percent of Colorado River water to the tribes for the next 20 years. After that the Indians would get no CAP water.

Rather than accept this deal the Indians went to federal court. They say they are entitled to enough water to irrigate the 177,000 arable acres they own.

Their claim is supported by Sen. Edward Kennedy (D-Mass.) who has introduced legislation that would compensate the Indians for the federal government's neglect of its trust responsibility to protect their water rights.

Kennedy's Central Arizona Tribal Water Rights Act would require the Interior department to acquire land with adequate surface water supplies, and transfer it to the tribes as compensation for their lost water.

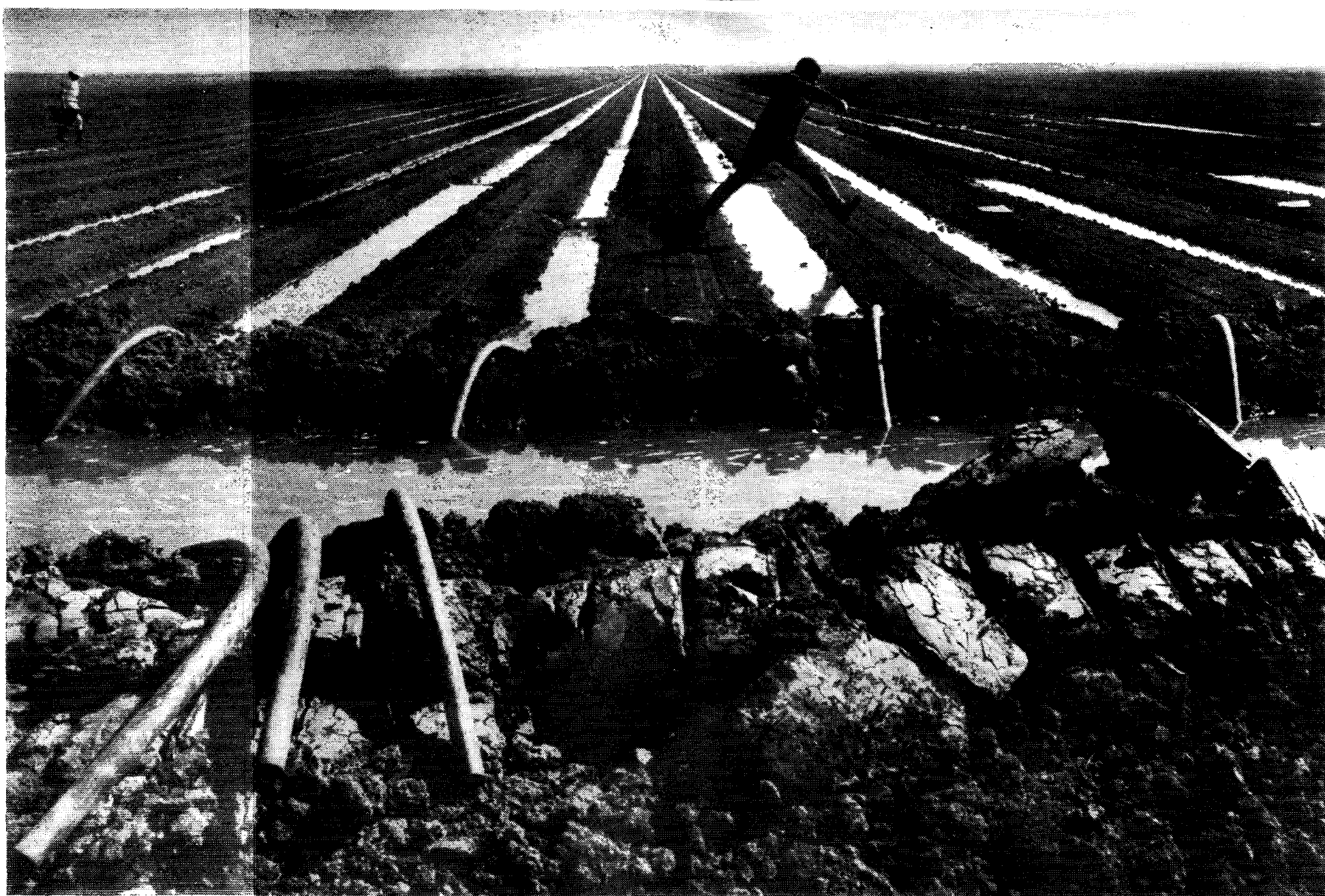
"It appears to me premature to proceed with a public project costing over \$1.6 billion to benefit the economy of central Arizona," said Kennedy, "when that economy could be profoundly altered, and the repayment capability of the project seriously threatened by the successful prosecution of the Indian water claims."

Meanwhile, the water table under the state continues to sink. "This has always been boom and bust country," says State Lands Commissioner Andrew Bettwy. "Maybe the next bust will come when the water's gone."

Tom Barry is a staff reporter for *Seers Rio Grande Weekly* in Albuquerque, N.M.



# WATER



Bob Fitch

## Crisis brewing over water

By Rasa Gustaitis

**N**OW THAT THE COUNTRY has finally acknowledged that it faces an energy crisis, Jimmy Carter is about to confront it with an even tougher issue: water.

Like fossil fuels, water is finite. There is only so much. Unlike oil, it has no substitute. And though it is renewable, it is quickly becoming scarce and expensive. The General Accounting Office recently warned of "increasing signs that the next great resource crisis—an inadequate water supply—may be rapidly approaching and may be a more difficult problem to solve" than energy.

The crisis has been brewing for decades. Carter is the first president, however, to point to water as an urgent national issue and to try to map a strategy to preserve and protect it. He is expected to announce this strategy later this year, bringing on a likely furor in Congress.

The water crisis is nationwide, though it is especially dramatic in the semi-arid sunbelt state, which lately have experienced the greatest population and industrial growth.

In the Texas high plains, for instance, thousands of irrigated acres of cotton may have to revert to dry grazing land within 20 years when, according to some geologists, groundwater will run out. The problem is similar in western Kansas, Colorado, Arizona, Nevada and parts of California.

In several coastal states salt water intrusion threatens underground freshwater supplies because too much water has been pumped from aquifers (underground reservoirs), allowing sea water to enter. In Florida, which depends mainly on groundwater because its streams are shallow and brackish, the state's principal supply is endangered. It takes very little salt water to destroy an aquifer and the damage is almost irreversible.

Because of overuse of ground water more than a thousand square miles of land has subsided in Arizona and other

In the past if there wasn't enough water somewhere, it was brought in from elsewhere. But that option is rapidly becoming more difficult.

western states.

Excessive irrigation has degraded the soil by salt build-ups in most Western states.

Industrial and agricultural chemicals have polluted much of the country's drinking water supply. Deep underground supplies, which are now considered inaccessible but might perhaps be tapped with more advanced technology, are being poisoned by injection of toxic chemicals into underground dumps.

Meanwhile, plans to extract coal and mine metals with hydraulic methods are about to place a massive new demand on the scarce water in the Southwest and the Great Plains. That demand can only be met at a heavy cost to agriculture.

### Few options left.

In the past, the assumption has been that if there's a shortage of water in one place, more could and should be brought in from elsewhere. But so many rivers have now been drained, so many valleys damned, that the price of continuing has grown exorbitant. Looking north for new sources now means looking to Canada and even the arctic glaciers. And that implies a loss of national self-sufficiency.

The alternative course, the one favored by Carter, is to explore the vast potential for conservation and to encourage self-sustaining patterns of use. That, however, implies a change in federal policies that have encouraged waste of water by providing it to users at far below cost, courtesy of the taxpayers.

One of President Carter's first actions after inauguration was to order a review of 32 major dams, flood control and irri-

gation projects, cancelling 18 of them. In so doing he brought upon himself the wrath of Congress as he stepped into the jealously guarded terrain of pork-barrel politics.

The water policy Carter is now expected to propose will anger even more political leaders and special interests, as it affects the way millions of federal dollars are spent.

The policy is expected to stress conservation and to call for more realistic cost accounting, requiring beneficiaries of federal water projects to pay the costs. It will probably also discourage projects that move water from one place to another and may require a search for non-structural alternatives—not developing on a flood plain, as opposed to building a flood control project, for instance.

Opposition will be especially strong in the West, where Carter has already reaped anger with his water policies.

### Bureaucratic snarl.

Federal agencies spend nearly \$5 billion a year on water projects, not counting water quality improvement. Forty-three departments and agencies are involved, often at cross-purposes.

Of the 420 billion gallons of water used in the U.S. daily 80 percent goes to irrigation, mainly to states west of the Mississippi. The federal water is priced so low that farmers find it cheaper to let much of it run off unused than to install more efficient irrigation systems that could cut water use in half and eliminate the need for more planned water projects.

But though the federal role is great, water policy is largely under the jurisdic-

tion of the states and localities. Here the confusion is as great or greater.

Anyone whose land abuts a water source, such as a stream or lake, is privileged to a fair share of it. Anyone can claim water for "reasonable and beneficial" use, much the way miners stake claims to gold. Anyone who wants to dig a well on his land may do so, even if he thereby dries out his neighbor's well.

As water becomes scarce such every-man-for-himself policies clearly become a prescription for disaster. Yet local management programs are slow in coming. Instead, states have plans for mammoth construction schemes.

Texas plans to save the high plains cotton farms by diverting Mississippi River water, though the cost of doing so would bring the water at \$340 per acre foot, compared to the already high \$30 an acre foot in California. (An acre foot of water is enough to cover an acre one foot deep.)

Arizona plans to tap the Colorado through the Central Arizona Project (CAP). The state is entitled to a share of this river's water but, until now, has allowed it to go to Los Angeles.

President Carter has made delivery of the CAP water conditional on adoption of a strict water management policy by Arizona. So far none has been adopted. Fountains continue to spout amid cactuses in new subdivisions.

Los Angeles, meanwhile, is looking north toward the highly disputed Peripheral Canal, which would divert more of northern California's water south. Some city officials have also discussed the possibility of tapping the Snake River, further north, or the Columbia.

Interior Secretary Cecil D. Andrus has made it clear, however, that he would not look kindly on such proposals. "I am opposed to any new plan that could result in the movement of water from one state to another," he said. "That is not the way to solve a water crisis."

**Rasa Gustaitis is an associate editor of Pacific News Service and a member of the Third Century America Project, specializing in resources.**