STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

A PERFORMANCE AUDIT
OF THE

COPPER TARIFF BOARD

JUNE 1983

A REPORT TO THE
ARIZONA STATE LEGISLATURE

REPORT 83-12

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

June 27, 1983

Members of the Arizona Legislature
The Honorable Bruce Babbitt, Governor
Mr. Denison Kitchel
Arizona Copper Tariff Board

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Copper Tariff Board. This report is in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. The performance audit was conducted as a part of the Sunset Review set forth in A.R.S. §§41-2351 through 41-2379.

The blue pages present a summary of the report; a response from the Arizona Copper Tariff Board is found on the yellow pages.

My staff and I will be pleased to discuss or clarify items in the report.

Douglas R. Norton
Auditor General

Enclosure

111 WEST MONROE • SUITE 600 • PHOENIX, ARIZONA 85003 • (602) 255-4385

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SUMMARY

The Office of the Auditor General has conducted a performance audit of the Arizona Copper Tariff Board in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as a part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

Created in 1933, the Arizona Copper Tariff Board is a five-member Board responsible for promoting the copper mining industry in the State. The Board has functioned exclusively in lobbying for Federal tariff legislation and administrative trade policies which protected domestic copper production from foreign imports. During the four decades of the 1930s, 1940s, 1950s and 1960s the Board actively campaigned for the protection of Arizona's copper mining industry which continues to supply over 60 percent of the copper produced in the United States. Although the amount of tariff duties on copper imports fluctuated, the Board successfully lobbied for the institution and adjustments of "peril points"--a specified world copper price level at or below which suspended import duties become automatically reinstated.

However, the Board has been virtually inactive for at least 15 years. The Board has met only four times since 1967 with the last meeting occurring in 1977. None of the meetings resulted in any substantial Board activity. According to the Board's chairman, in the early 1970s, some Board members exerted efforts on behalf of the industry to influence Federal regulations in the areas of depletion allowances and investment credits. However, two letters (one to a former U.S. Senator from Arizona and the other to a U.S. Congressman) and two Board statements presented to the International Trade Commission (one in 1975 and the other in 1978) are the only evidence of official Board activity since 1967. The Board has not responded to recent economic conditions affecting the copper industry in Arizona despite its stated intention to function during emergencies.

Other State agencies and private groups currently perform the Board's functions without Board involvement. While the Board has been inactive, the Governor's staff, the Office of Economic Planning and Development (OEPAD), Arizona's congressional delegation, labor unions, mining associations and mining companies have actively sought Federal action to remedy problems in the domestic copper industry.

We recommend the Legislature consider allowing the Arizona Copper Tariff Board to terminate on July 1, 1984. If the Board is allowed to terminate, we recommend the Legislature consider commending Board members for their years of service to the State. The tenure of current Board members ranges from 8 to 38 years. Another past Board member served in excess of 30 years.

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Arizona Copper Tariff Board in response to a January 18, 1982, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as a part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

In 1931, a Copper Tariff Commission was created by executive order to promote and protect the copper mining industry in Arizona. Two years later in 1933, the Legislature established the Copper Tariff Board to replace the Commission. The 1933 legislation recognized the importance of the copper mining industry which at that time, according to two long-term board members, provided about 25 to 35 percent of the State's revenues. According to A.R.S. §27-171.A. the purpose of the Board is:

> "to encourage and promote the copper mining industry, the development of new copper mines, and the increase in the amount and value of taxable property."

Historically, the Board has limited its functions exclusively to lobbying for Federal tariff legislation and administrative trade policies which protected domestic copper production from foreign imports. During the four decades of the 1930s, 1940s, 1950s and 1960s, the Board actively campaigned for the protection of Arizona's copper mining industry which continues to supply over 60 percent of the copper produced in the United States.

By 1932, the Copper Tariff Commission, the forerunner of the Board, had successfully influenced Federal legislation which imposed copper import duties of 4¢ per pound. Congressional and executive actions gradually reduced the original 4¢ per pound duty rate to the current 0.8¢ rate, although at times the tariff was completely suspended. The Board, however,

successfully lobbied for the institution and adjustments of "peril points"--a specified world copper price level at or below which suspended import duties become automatically reinstated.

The Board consists of five members appointed by the governor for a term to run concurrently with that of the governor. However, reappointment of members has been common resulting in lengthy tenures. The tenures of current Board members range from 8 to 38 years. Another past member also served on the Board for over 30 years.

Personnel and Budget

The Board has no staff and Board members receive no compensation. Although the Board has obtained approximately $3,000 in annual appropriations it has reverted virtually all appropriations to the General Fund for at least the past 15 years.

Audit Scope

The scope of our audit was limited to the following issues:

- The need to continue the Arizona Copper Tariff Board and

- The effectiveness and efficiency with which the Board has met its objectives.

The Auditor General and staff express appreciation to the members of the Copper Tariff Board for their cooperation and assistance during the course of our audit.

SUNSET FACTORS

In accordance with A.R.S. §§41-2351 through 41-2379, 11 factors are considered to determine, in part, whether to continue or terminate the Arizona Copper Tariff Board. Not all of the 11 factors were applicable to the Board since it does not perform a regulatory function.

1. Objective and purpose in establishing the Board

The purpose of the Arizona Copper Tariff Board as set forth in A.R.S. §27-171.A. is:

> ". . . to encourage and promote the copper mining industry, the development of new copper mines, and the increase of the amount and value of taxable property."

Since its establishment in 1933, the Board has focused exclusively on lobbying for Federal tariff legislation and administrative trade policies favorable to the domestic copper industry.

2. The effectiveness with which the Board has met its objective and purpose and the efficiency with which the Board has operated

In its early years the Board supported Federal tariff legislation, assisted in the determination of tariff suspension policies and successfully convinced Congress to fix "peril points" or floor prices at or below which suspended import duties are reinstated. Since the 1960s, however, the Board has been largely inactive. The Board has not functioned effectively in response to recent recessions and unemployment in the copper industry (see Finding, page 7).

3. The extent to which the Board has operated within the public interest

Historically, the Board's efforts contributed to the enactment of Federal legislation and trade policies favoring domestic copper production. These efforts were in the public interest since Arizona produces over 60 percent of the nation's copper supply, and the copper industry in Arizona is a major employer and contributor to the State's economy.

4. The extent to which rules and regulations promulgated by the Board are consistent with the legislative mandate

The statutes do not require the Board to promulgate rules and regulations and none have been promulgated.

5. The extent to which the Board has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public

The Board does not have rule-making authority and no rules and regulations have been promulgated.

6. The extent to which the Board has been able to investigate and resolve complaints which are within its jurisdiction

The Board does not receive, investigate or resolve complaints from the public.

7. The extent to which the Attorney General or any other applicable Agency of State government has the authority to prosecute actions under enabling legislation

The statutes do not define violations nor prescribe penalties. Therefore, no prosecutable actions are specified in the enabling legislation.

8. The extent to which the Board has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate

The Board has not proposed statutory changes. In 1977, the Board discussed changing the Board's name to reflect a broader role and interest in matters affecting the copper industry. Board members decided against the change since it required amending the statutes. However, the Board could fulfill its original statutory mandate under the present legislation.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in the subsection

Our review revealed that no changes are needed to comply with the Sunset Factors addressed.

10. The extent to which the termination of the Board would significantly harm the public health, safety or welfare

Termination of the Board would not harm the public health, safety or welfare (see page 10).

11. The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate

This Sunset Factor does not apply to the Arizona Copper Tariff Board.

FINDING

THE ARIZONA COPPER TARIFF BOARD IS INACTIVE AND IS NO LONGER NEEDED.

The Arizona Copper Tariff Board is no longer active and should be terminated. Although active during its early years, the Board has met infrequently and accomplished little for at least the past 15 years. Other State agencies and private groups are currently performing its functions.

Board Is Inactive

Although the Board functioned actively at one time, it has been almost completely inactive since at least 1967. The Board has not responded to recent economic crises affecting the copper industry in Arizona despite its stated intention to function during emergencies.

The Board functioned actively following its establishment in 1933. Serving as a lobbying organization representing the State in Washington, D.C., it worked through most of the 1960s to influence Congressional actions and Federal administrative policies affecting the copper industry in Arizona. The Board focused its efforts almost exclusively on tariff issues and international trade policies. During this period, the Board was instrumental in the establishment and adjustment of "peril points"--international prices below which tariffs are reinstated. According to the Board chairman, the Board was also active with regard to Federal regulations in the areas of investment credits and depletion allowances.

Since the 1960s, however, Board activities declined, and for at least 15 years the Board has been virtually inactive. The Board has met only four times since 1967. One meeting, however, was prompted by the Governor's office. Another meeting was held in response to a State Senate committee request for a report on its level of activity. None of the meetings resulted in any substantial Board activity. Two letters--one to a former U.S. Senator from Arizona and the other to a U.S. Congressman--and two

Board statements presented to the International Trade Commission--one in 1975 and another in 1978--are the only evidence of Board activity since 1967. With the exception of a meeting with our auditors in February 1983, the Board has not met since November 1977.

Both the Legislature and the Governor's office recognized the Board's inactive status early in the 1970s. In 1972, a State Senate committee requested an activities report from the Board; and in 1975, the Governor's office also requested such a report. In 1975, the Executive Budget Office recommended eliminating appropriations because the Board had reverted all funds since fiscal year 1967-68 and other State agencies and private groups performed its functions. The Board responded by emphasizing its historical role related to copper tariffs and by indicating that it only functioned during "emergencies" in the industry. The Board's budget stated that ". . . when there is a threat to the copper industry this Board goes on an active status and its 'goals and objectives' go into effect." The Board further stated that if an emergency arises, the Board may employ experts and related staff to study the situation and make recommendations and, if necessary, appear before Congress to present information.

Despite its intention to function during emergencies the Board has remained inactive during recent periods of severe economic recession and high unemployment in the industry. The copper industry recently reduced employment levels by 43 percent and completely shut down some operations. In one Arizona county dependent on copper, unemployment levels reached 67 percent, one of the highest unemployment rates in the nation. Yet, the Board has not responded to these conditions, nor has it defined the type of emergency situation which would require the Board to reactivate itself.

The Board has not responded to recent problems for two reasons. First, although the statutes state the Board's general purpose is to ". . . encourage and promote the copper industry . . .," the Board has traditionally limited its role to lobbying for Federal tariff legislation.

Second, according to the Board chairman, the Board members' consensus was that further efforts to increase tariff protection for the copper industry would be "futile and impracticable" in view of the United States' participation in the General Agreement on Tariffs and Trade (GATT)* and the strong free trade policies of recent Federal administrations. However, the Board did not make these decisions officially. The Board has not met since 1977, and available Board records do not document any Board decisions made with regard to problems affecting the copper industry during the past 15 years.

State Agencies and Private Groups Perform the Board's Functions

Other State agencies and private groups currently perform the Board's functions without Board involvement. While the Board has been inactive, the Governor's staff, the Office of Economic Planning and Development (OEPAD), Arizona's congressional delegation, labor unions, mining associations and mining companies have actively sought Federal action to remedy problems in the domestic copper industry.

In October 1977, a special gubernatorial committee held a day-long meeting in Washington, D.C. regarding "the depressed copper situation in Arizona." Members of the Governor's office and OEPAD staffed the committee and prepared information on the economic recession affecting Arizona's copper industry. Solutions discussed included tariff adjustments and stockpiling. The committee met with the Arizona Congressional delegation, representatives of the Departments of Labor and the Interior and members of the International Trade Commission. The Board neither participated in nor knew about the committee.

* The GATT, instituted in the 1950s, is a reciprocal trade agreement between the United States and over 73 nations which authorizes the President to reduce import duties on selected trade items.

Furthermore, in four congressional sessions since 1976, including the current session, an Arizona congressman or senator has introduced legislation which proposed the imposition of tariffs on copper imports. The proposed legislation would have equalized the cost of producing copper domestically with the cost of production in countries which do not adhere to the same pollution standards as the United States. While the Governor's office, a labor union, some mining companies and mining associations supported these bills, most Board members appeared unaware that such legislation had been proposed. During the course of our audit, we contacted various congressional staff members in Washington D.C. who developed copper tariff legislation in the past 15 years. None knew about or had heard of the Arizona Copper Tariff Board.

CONCLUSION

The Copper Tariff Board is not needed as evidenced by its inactive status. The Board has not met since 1977 and other agencies and private groups perform the Board's functions.

RECOMMENDATIONS

1. The Legislature should consider allowing the Arizona Copper Tariff Board to terminate on July 1, 1984.

2. If the Board is allowed to terminate, the Legislature should consider commending Board members for their many years of service to the State.

ARIZONA COPPER TARIFF BOARD

DENISON KITCHEL, Chairman *
~~2912 East Sherran Lane~~
~~Phoenix, Arizona 85016~~

W. P. GOSS, Vice Chairman
P. O. Box M
San Manuel, Arizona 85631

THOMAS G. CHILTON, Secretary/Treasurer
P. O. Box 37
Superior, Arizona 85273

ROBERT A. GALLAHER
5101 Via Entrade
Tucson, Arizona 85718

EDWARD C. MAXWELL
100 Pershing
Miami, Arizona 85539

June 23, 1983

AUDITOR GENERAL

Mr. Douglas R. Norton
Auditor General, State of Arizona
111 West Munroe--Suite 600
Phoenix, AZ 85003

Dear Mr. Norton

Receipt is acknowledged of the revised preliminary draft report enclosed with your letter of June 21, 1983. The Board has no comments to make at this time with regard to this report.

On behalf of all the members of the Board, I wish to commend the courtesy and efficiency of the members of your staff in the conduct of this investigation.

Very truly yours,

Denison Kitchel,
Chairman

cc: Members of the Board

* 9735 Vereda Solana
Scottsdale, AZ 85255