

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, FEBRUARY 18, 1998
ARIZONA DEPARTMENT OF WATER RESOURCES

PLEASE PRINT

1	NAME: Larry Dozier REPRESENTING: CAP	BUSINESS ADDRESS: oh file	ARE YOU ALREADY ON OUR MAILING LIST?	TEL: FAX: E-MAIL:
2	NAME: Dennis Patch REPRESENTING: Colorado River Indian Tribes	BUSINESS ADDRESS:		TEL: FAX: E-MAIL:
3	NAME: William VanAllen REPRESENTING: New magma IOD	BUSINESS ADDRESS:		TEL: FAX: E-MAIL:
4	NAME: Kathleen Mitchell REPRESENTING: ASL	BUSINESS ADDRESS:		TEL: FAX: E-MAIL:
5	NAME: Mark Myers REPRESENTING: Metro Water-Tucson	BUSINESS ADDRESS: oh file		TEL: FAX: E-MAIL:
6	NAME: Tonia Garrett REPRESENTING: ABC Ellis, Baker, Spitzer	BUSINESS ADDRESS: ON FILE		TEL: FAX: E-MAIL:
7	NAME: John Wharam REPRESENTING: Salt River Pima-Maricopa Indian Commun.	BUSINESS ADDRESS: 10005 Osborn Rd Scottsdale, 85254		TEL: FAX: E-MAIL:

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8	NAME: <i>Harry Ruzgerian</i> REPRESENTING: <i>MWD Southern California</i>	BUSINESS ADDRESS: <i>350 S. Grand Ave. LA CA 90071</i>	ARE YOU ALREADY ON OUR MAILING LIST? <i>Yes</i>	TEL: <i>213 217 6082</i> FAX: E-MAIL:
9	NAME: <i>Bob Barrett</i> REPRESENTING: <i>CAP</i>	BUSINESS ADDRESS: <i>23232 W. 7th St PHX</i>	YES	TEL: <i>869-2135</i> FAX: <i>869-2678</i> E-MAIL: <i>RBARRET@CA-AR.com</i>
10	NAME: <i>JAMES E. SWANSON</i> REPRESENTING: <i>City of Surprise</i>	BUSINESS ADDRESS: <i>12425 W. Bell Road Suite 0-100 Surprise, AZ 85374</i>	YES	TEL: <i>546-5517</i> FAX: E-MAIL:
11	NAME: <i>Jeff Johnson</i> REPRESENTING: <i>SNWA</i>	BUSINESS ADDRESS: <i>1001 South Valley View LV, NV 89158</i>	<i>yes</i>	TEL: <i>702 258-3948</i> FAX: E-MAIL:
12	NAME: <i>G.L. EDWARDS</i> REPRESENTING: <i>CRC-NV</i>	BUSINESS ADDRESS	<i>yes</i>	TEL: <i>702-486-2690</i> FAX: <i>702-486-2697</i> E-MAIL:
13	NAME: <i>Rich Siegel</i> REPRESENTING: <i>SRP</i>	BUSINESS ADDRESS <i>on file</i>	<i>Yes</i>	TEL: FAX: E-MAIL:
14	NAME: <i>Dennis Rule</i> REPRESENTING: <i>Tucson</i>	BUSINESS ADDRESS	<i>Yes</i>	TEL: FAX: E-MAIL:

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15	NAME: <i>Beth Miller</i> REPRESENTING: <i>Mesa</i>	BUSINESS ADDRESS <i>on file</i>	ARE YOU ALREADY ON OUR MAILING LIST? <i>yes</i>	TEL: FAX: E-MAIL:
16	NAME: <i>Cynthia Stefanovic</i> REPRESENTING: <i>Az State Land Dept</i>	BUSINESS ADDRESS <i>1616 W. Adams Phx AZ 85007</i>	<i>yes</i>	TEL: FAX: E-MAIL:
17	NAME: <i>Bill Plummer</i> REPRESENTING: <i>WUCPD of Apache Det</i>	BUSINESS ADDRESS	<i>Yes</i>	TEL: FAX: E-MAIL:
18	NAME: <i>C Eugene Gray</i> REPRESENTING: <i>Dala River Indian Community</i>	BUSINESS ADDRESS	<i>yes</i>	TEL: FAX: E-MAIL:
19	NAME: <i>Dale Ensminger</i> REPRESENTING: <i>USBR</i>	BUSINESS ADDRESS <i>P.O. Box 61470 Boulder City, NV 89005</i>	<i>yes</i>	TEL: <i>(702) 293-8659</i> FAX: <i>(702) 293-8042</i> E-MAIL:
20	NAME: <i>John Reisinger</i> REPRESENTING: <i>USBR</i>	BUSINESS ADDRESS <i>11 11 11 11</i>	<i>NO</i>	TEL: <i>702 293-8592</i> FAX: E-MAIL:
21	NAME: <i>Gerald R. Copeland</i> REPRESENTING: <i>City of El Mirage</i>	BUSINESS ADDRESS <i>A-N West, Inc.</i> <i>7600 N 15th St. #200 Phx., AZ. 85020</i>	<i>Yes</i>	TEL: <i>861-2200</i> FAX: <i>943-1989</i> E-MAIL: <i>geraldcope@aol.com</i>

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, FEBRUARY 18, 1998
ARIZONA DEPARTMENT OF WATER RESOURCES

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22	NAME: PAUL Orme REPRESENTING: MSTDP/(CAITM)	BUSINESS ADDRESS on file	ARE YOU ALREADY ON OUR MAILING LIST? YES	TEL: on file FAX: E-MAIL:
23	NAME: Christopher S. Harris REPRESENTING: ADWR - Colo. Riv. Mgt.	BUSINESS ADDRESS	yes	TEL: FAX: E-MAIL:
24	NAME: Mike Clark REPRESENTING: B-E	BUSINESS ADDRESS	yes	TEL: FAX: E-MAIL:
25	NAME: Bob McClain REPRESENTING: AMWUA	BUSINESS ADDRESS O.F.	SI	TEL: FAX: O.F. E-MAIL:
26	NAME: Bill Sullivan REPRESENTING: Martinez & Curtis	BUSINESS ADDRESS ON File	yes	TEL: FAX: E-MAIL:
27	NAME: REPRESENTING:	BUSINESS ADDRESS		TEL: FAX: E-MAIL:
28	NAME: REPRESENTING:	BUSINESS ADDRESS		TEL: FAX: E-MAIL:

Arizona Water Banking Authority
500 North Third Street, Phoenix, Arizona 85004
Telephone 602-417-2418
Fax 602-417-2401

FINAL AGENDA
Wednesday, February 18, 1998
9:30 a.m.

Arizona Department of Water Resources
Third floor conference room

- I. Welcome / Opening Remarks
- II. Adoption of Minutes of January 21 Meeting
- III. Discussion of the 1998 Annual Plan of Operation and Staff Activities
- IV. Discussion, public comment, and approval for staff to submit comments on the Department of the Interior's Proposed Rule on Interstate Banking issued 12/31/97
- V. Discussion of CAP/USBR Proposed Settlement
- VI. Update on Study Commission Activities
- VII. Update on Interstate Discussions
- VIII. Call to the Public
- IX. Adjournment

Future Meeting Dates:

Wednesday, March 18, 1998

Wednesday, April 15, 1998

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Arizona Water Banking Authority at (602) 417-2418 or (602) 417-2455 (T.D.). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes

January 21, 1998
Arizona Department of Water Resources



AUTHORITY MEMBERS
Rita P. Pearson, Chairman
Tom Griffin, Vice-Chairman
Bill Chase, Secretary
Grady Gammage, Jr.
Richard S. Walden

EX OFFICIO MEMBERS
Senator Pat Conner
Rep. Gail Griffin

Welcome / Opening Remarks

Chairman Pearson opened the Arizona Water Banking Authority meeting. All members of the Authority were present except Senator Pat Conner and Representative Gail Griffin.

Adoption of Minutes of December 17 Meeting

The December 17 meeting minutes were adopted as submitted.

Discussion of the 1998 Annual Plan of Operation staff activities

Mr. Henley stated that the closing figure for water delivered in 1997 for the Arizona Water Banking Authority (AWBA) was 326,235 af.

The AWBA plans to deliver 360,000 af of water in 1998. Approximately 30,000 af were delivered in January.

Ms. Kunasek stated that the AWBA's web page is still in the process of development and should be up and running in February.

The Innovations in American Government application is now complete and has been sent to the John F. Kennedy School of Government at Harvard University.

**Discussion and Recommendation on Number of Credits to be Reserved for Outside CAP
Update on Interstate Discussions**

Mr. Henley explained that the enabling legislation requires the AWBA to reserve a reasonable number of long term storage credits that would be accrued with the general fund appropriations for the benefit of municipal and industrial users outside the Central Arizona Project service areas.

Mr. Henley recommended setting 420,000 af of credits aside from the credits developed with general funds to firm the water of the "priority four" users. Mr. Henley stated that the 420,000 af should be subdivided among the three counties (Yuma, La Paz and Mohave Counties), with a major portion for Mohave County.

The credits developed with general fund monies can be used for four purposes: 1) firming the M&I supplies for outside the CAP, 2) firming the M&I supplies to CAP subcontractors, 3) assisting the on-going American Indian water rights settlements and 4) to fulfill the water management objectives that should be identified through the third management plan process.

Mr. Henley also recommended that the credits that were developed in 1997, approximately 150,000 af, be distributed to firm the M&I supplies for outside the CAP and that the credits be distributed on the basis of the percentages that were identified.

A motion to adopt the 1997 distribution as recommended by the AWBA staff was made. Ms. Pearson added that she would like to see more research done in the future and to have more community involvement and discussion about a long-term plan for how the credits will accrue for the different purposes. The 1997 distribution mechanism was adopted with the recommendations.

Mr. Henley stated that he would also like to request that the Authority members allow the AWBA staff to notify the different counties that the Authority has made the reservation and to give them an opportunity to comment.

Proposed Update to the Storage Facility Inventory

Ms. Kunasek gave an overview of the development of the storage facility plan.

A schedule listing the process to complete the plan has been prepared by the AWBA staff. A draft plan should be available in June 1998 for the Authority's review, and a final plan would be ready for approval by the Authority in August 1998.

A motion to adopt an amended Storage Facility Inventory that includes the schedule for the Plan's completion was made and the update was adopted.

Presentation and Discussion of Federal Register Proposed Rule on Interstate Banking issued 12/31/97

Mr. Henley referenced the review schedule of the timing process the AWBA staff should undertake in putting together public comments, which will then be submitted to the Secretary of Interior, Bruce Babbitt.

The AWBA staff will make the proposed federal rules available for feedback from interested parties. At the next AWBA meeting, February 18, the comments will be discussed. The Authority will then submit comments to the Secretary of the Interior.

The Bureau of Reclamation will promulgate a rule after reviewing public comments. The final rule will probably be complete in the summer of 1998.

Ms. Pearson summarized her concerns:

- The type of water that may be stored by the Bank;
- The use of the terms "entitlements" and "apportionment" almost interchangeably;
- The definition of an authorized entity is overly inclusive;
- The specificity required for the Interstate Storage Agreement; and
- The scope of environmental review.

Bill Chase questioned whether the definition "authorized entity" means that AWBA would have to hold an entitlement and whether the AWBA is even authorized to hold an entitlement.

Public Comments:

Bob McCain of AMWUA said they concurred with the AWBA comments and expressed appreciation for the work the Bureau of Reclamation had done. Jay Moyes of the Meyer Hendricks law firm noted that impacts on the power production should be taken into consideration. Le Grand Nielson of the Bureau of Reclamation stated that the Bureau will hold public hearings to take public comments, if requested, on the proposed rule.

Brief Discussion of Annual Report Process

Ms. Kunasek stated that by law, the AWBA must produce a report of the previous calendar year's activities by July 1, 1998. The final report will be ready for approval and signing at the June 17 AWBA meeting.

Update on Interstate Discussions

Mr. Henley reminded the Authority members that the Secretary of Interior's December Colorado River Water Users Association speech was included in the public packet.

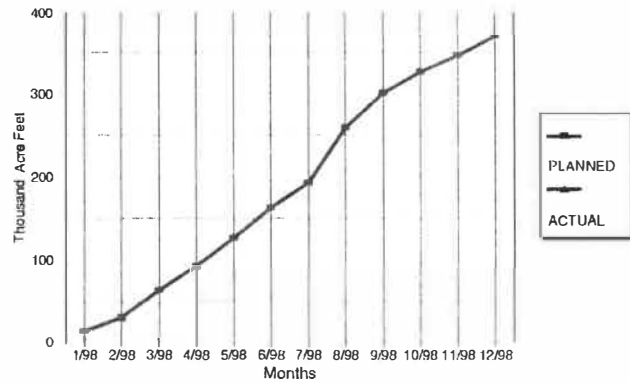
Ms. Pearson added that the seven basin states will meet in the next few weeks. They will discuss the proposed interstate banking rule, as there is an interest by the seven states to provide joint comments. An update on the efforts of California to adopt a 4.4 plan should be forthcoming.

Call to the Public

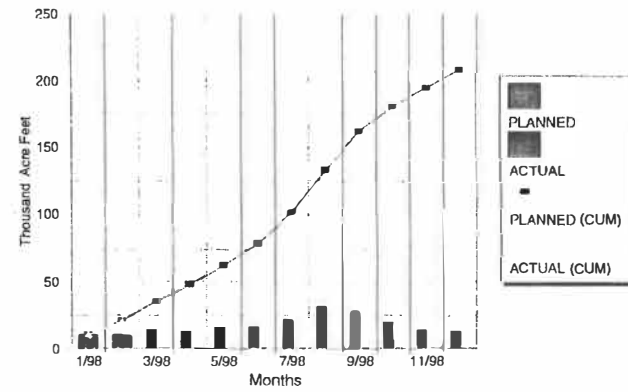
Chairman Pearson adjourned the meeting at 11:15 a.m.

1998 PLAN OF OPERATION

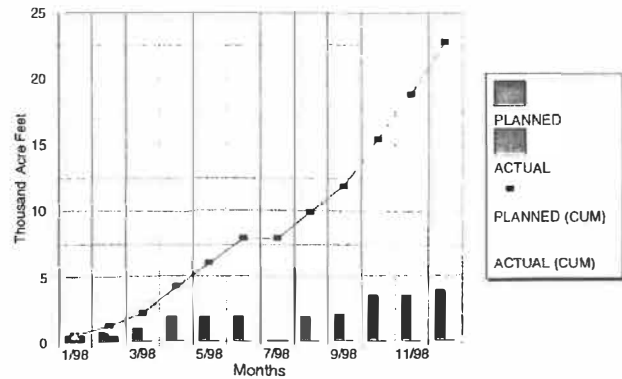
CUMULATIVE DELIVERIES (by Month)
Planned vs. Actual



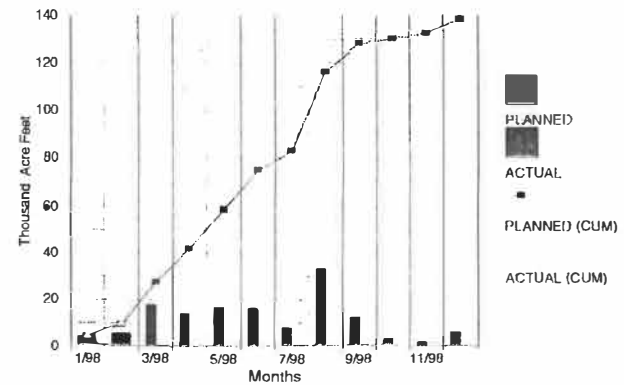
PHOENIX AMA DELIVERIES (by Month)
Planned vs. Actual



TUCSON AMA DELIVERIES (by Month)
Planned vs. Actual



PINAL AMA DELIVERIES (by Month)
Planned vs. Actual



1998 PLAN OF OPERATION BY ENTITY


Actual deliveries updated 17-Feb-98

	jan	feb	total	
Phoenix AMA				
GRUSP	8,032	8,000	16,032	GRUSP
RWCD	0	0	0	RWCD
NMIDD	2,233	1,625	3,858	NMIDD
QCID	0	0	0	QCID
MWD	0	0	0	MWD
CHCID	0	0	0	CHCID
TID	0	0	0	
Subtotal	10,265	9,625	19,890	
Pinal AMA				
CAIDD	0	0	0	CAIDD
MSIDD	2,430	3,420	5,850	MSIDD
HIDD	1,819	2,400	<u>4,219</u>	HIDD
Subtotal	4,249	5,820	10,069	
Tucson AMA				
Avra Vally	0	0	0	Avra Vally
CAVSRP	531	420	951	CAVSRP
Pima Mine	0	0	0	Pima Min
Lower Santa Cruz	0	0	0	L. Santa
Subtotal	531	420	951	
TOTAL	15,045	15,865	30,910	

DIRECTOR'S OFFICE

MEMORANDUM

TO: Directorate Staff

FROM: Joseph C. Smith, Deputy Director 

DATE: February 2, 1998

SUBJECT: Strategic Planning Deadlines for Fiscal Year 1998

Over the next several months, three significant documents are scheduled statutorily and will require agency-wide input for completion.

These three documents are the Agency's Strategic Plan due April 1, 1998; the Agency's Three-Year Data Processing Plan due June 1, 1998; and the Agency's Biannual Budget Request for State Fiscal Years 2000 and 2001 due September 1, 1998.

Each of these documents build from the previous document with the Strategic Plan being the cornerstone of our Agency operation through 2001. The Governor's Office of Strategic Planning and Budgeting has crafted a Strategic Plan format for all State agencies. Their format requires agency diligence for successful completion. More importantly, the Strategic Plan will develop measurable goals and, hopefully, will be built organizationally from the bottom up.

To develop a "bottom up" Strategic Plan, I would like to sponsor a small team representative of each Division in the Agency. This team is not necessarily going to put the Strategic Plan together because it would be my objective to relieve the burden as much as possible from the programs having to produce the Strategic Plan. It is imperative, however, that each Division have its input and concur with the Plan because they will be held accountable for the goals. Thursday, February 5, 1998, from 1:00 P.M. to 4:00 P.M. will be a kickoff meeting of the small team so that the strategic planning process can move along.

Please give me your assigned person as soon as possible.

JCS:bjw

cc: Rita P. Pearson, Director



35-122 . Strategic plans; program lists; compilation

(Eff. 3/1/98)

A. Consistent with instructions issued by the governor, the administrative head of each budget unit is responsible for:

1. Developing a **strategic plan** for the entire budget unit. At a **minimum**, the **plan** shall extend for the current fiscal year and the two ensuing fiscal years and shall contain a mission statement, goals, objectives and performance measures for the budget unit as a whole. The performance measures shall be stated in terms that are consistent with a budget unit's goals and objectives and that emphasize results. the **strategic plan** shall be submitted to the governor's office of **strategic** planning and budgeting and to the staff of the joint legislative budget committee by April 1 of each even-numbered year.
2. Developing a **strategic plan** for each program identified in subsection B of this section. The **plan** shall use the same format as the **plan** required under paragraph 1. These plans shall not be submitted to the governor's office of **strategic** planning and budgeting and the staff of the joint legislative budget committee unless otherwise required for a program authorization review authorized by section 41-1275.

B. Consistent with instructions issued by the governor, the administrative head of each budget unit is responsible for developing a list of programs for the budget unit. For each program the list shall include a description, its mission statement, goals, performance measures that emphasize results and budgetary data for the current and prior fiscal year. The budgetary data shall include funding amounts, regardless of source. The list of programs shall be submitted to the governor's office of **strategic** planning and budgeting by April 1 of each even-numbered year. The governor's instructions shall allow budget units with a minimal number of programs to consolidate their submissions for the **strategic plan** required under subsection A of this section with the list of programs required under this subsection.

C. The governor's office of **strategic** planning and budgeting shall compile the submissions required in subsection B of this section and by July 1 of each even-numbered year shall publish a master list of programs that are performed or overseen by state government. In consultation with the staff of the joint legislative budget committee, the governor's office of **strategic** planning and budgeting may modify the list of programs submitted by each budget unit. The master list shall include the program description, mission statement, goals, performance measures and budgetary data. The list shall include all programs that are administered jointly by two or more budget units.

D. For purposes of this section, a program may include a subprogram as determined by the governor's office of **strategic** planning and budgeting and the staff of the joint legislative budget committee.

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PROGRAM SUMMARY

ARIZONA WATER BANKING AUTHORITY

Rita P. Pearson, Chairman
Contact: Tim Henley, Manager (602-417-2418)

Authority Mission:

To use the Central Arizona Project to store otherwise unused Arizona entitlement to Colorado River water within the State to meet future water needs within the State including protecting Arizona's municipal and industrial users against future Colorado River water shortages (firming existing supplies), meeting the water management goals of the State, and help facilitate the settlement of water rights claims by Indian Communities against the State; and to provide opportunities for agencies within California and Nevada to store unused Colorado River water in Arizona to assist those States to meet their future water needs.

Authority Description:

The Arizona Water Banking Authority was established in 1996 with the passage of House Bill 2494. It is a five-member commission with two non-voting *ex officio* members appointed by the President of the Arizona Senate and the Speaker of the Arizona House of Representatives. The Director of the Department of Water Resources (ADWR) is a member of the Authority and serves as its chairman. The ADWR and the Central Arizona Project provide technical support to the Authority. The ADWR also provides legal and administrative support. The Authority annually submits a report to the Governor, the President of the Senate and the Speaker of the House containing a full and complete accounting of its transactions for the preceding year. The Authority submitted its first annual report August 1996 and will submit its annual report for 1997 by July 1998. The Authority must also adopt a Plan of Operation each calendar year.

Authority Financial Summary: (FY '97 expenditures, future FY projections to be provided by ADWR accounting staff)

Measurable Performance Goals:

Goal 1 -- To recharge Arizona's unused Colorado River water entitlement as funding and facilities permit.

Performance Measure	1997 Actual	1998 Projected	1999 Projected	2000 Projected	2001 Projected
Percentage of unused entitlement recharged	80%	82%			

Goal 2 -- To effectively target and spend general fund monies, tax revenues, and withdrawal fees to earn credits that will enable it to carry out the goals set forth in the Authority's enabling legislation.

Performance Measure	1997 Actual	1998 Projected	1999 Projected	2000 Projected	2001 Projected
Percentage of Funds Expended	75%	81%			

Goal 3 -- To support Water Banking Authority members by providing accurate, timely information on credits earned and available, Water Bank activity, amounts of water recharged, available funds, and other matters that affect operation of the Water Bank.

Performance Measure	1997	1998	1999	2000	2001
Percentage of Authority Members Expressing Satisfaction with Staff Activity	100%	100%			

Goal 4 -- To draft and negotiate Interstate Storage Agreements with Nevada and California to enable those states to bank a portion of Arizona's unused Colorado River water entitlement and to recover that water in future times of shortage or drought.

Performance Measure	1997	1998	1999	2000	2001
Percentage of Agreements Successfully Completed	N/A	100%	N/A	N/A	N/A

Arizona Water Banking Authority

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Web site developed by [staff](#) at the [Water Resources Research Center](#).
Site hosted by the College of Agriculture at the University of Arizona.

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**ARIZONA WATER BANKING AUTHORITY COMMENTS ON
BUREAU OF RECLAMATION, DEPARTMENT OF THE
INTERIOR, PROPOSED 43 CFR PART 414: OFFSTREAM
STORAGE OF COLORADO RIVER WATER AND
INTERSTATE REDEMPTION OF STORAGE CREDITS IN
THE LOWER DIVISION STATES.**

Submitted February __, 1998

Rule Section: Title

Comment: The Arizona Water Banking Authority (“AWBA”) finds that use of the terms “redemption” and “Storage Credit”¹ in the title and throughout the proposed rule mischaracterizes the banking operations of the AWBA and introduces a lack of clarity and ambiguity in the proposed rule.

Use of the terms “redemption” and “Storage Credit” introduces a lack of clarity into the proposed rule about how the interstate transactions are intended to work. In 1996, the State of Arizona recognized that a limited window of opportunity existed on the Lower Colorado River. It recognized that for a limited number of years, Arizona would not fully use its Colorado River apportionment. However, through the Central Arizona Project, the State could bring that unused water into the State to be stored underground in the State’s aquifers. Thus, the State enacted the Arizona Water Banking Authority Act, creating the AWBA and providing funding for the off-mainstream storage of the State’s unused Colorado River apportionment for the State’s future use.

In the Arizona Water Banking Authority Act, the State of Arizona allowed its fellow Lower Division States, under certain conditions, also to take

¹ Terms that are defined by the proposed rule are denoted throughout these comments by capitalization.

advantage of this limited window of opportunity to make use of currently unused water. The mechanism contemplated for such arrangements was for Arizona and another Lower Division State to enter into an agreement under which the other State would fund the delivery and storage of unused Colorado River water in Arizona. *See* A.R.S. § 45-2471. In exchange, the AWBA would agree that in the future, when the other State called upon the AWBA, the AWBA would use that stored water to replace water that Arizona would otherwise divert from the mainstream Colorado River. The Intentionally Created Unused Apportionment would then be available for delivery by the Secretary to the other Lower Division State pursuant to Article II(B)(6) of the Decree. *See* A.R.S. § 45-2472.

If the use of the terms “redemption” and “storage credits” in the proposed rule is intended to be used as shorthand terms for the concepts described above, their use leaves the proposed rules unclear as to the exact mechanism intended. If implementing the mechanisms described above is intended by the proposed rules, more precise language describing those concepts should be utilized; if other mechanisms are intended, it is unlikely the AWBA would be authorized to participate in such mechanisms.

In addition, ambiguity results from potential confusion between transactions addressed by the proposed rule and the actual offstream storage and recovery of mainstream water in the Storing State. There are a number of instances throughout the proposed rule where the terms could be construed as referring to the actual storage and recovery within and by the Storing State for later use as replacement water for Intentionally Created Unused Apportionment. (*See, e.g.,* § 414.3(a), “*An Interstate Storage Agreement will allow an authorized entity in a Storing State to store unused entitlement and/or unused apportionment for the credit of an authorized entity located in a Consuming State and will provide for the subsequent redemption of the credit.*”) This ambiguity is unnecessary and could be cured by more precise language describing the proposed interstate mechanism.

For these reasons, the AWBA recommends that the terms “Storage Credit” and “redeem” or “redemption” be eliminated from the title of the proposed rule and from the proposed rule itself.

**Proposed
Amendment:**

**PART 414--OFFSTREAM STORAGE OF COLORADO RIVER
WATER AND CREATION AND DELIVERY OF INTENTIONALLY
CREATED UNUSED APPORTIONMENT INTERSTATE
~~REDEMPTION STORAGE CREDITS IN THE LOWER DIVISION~~**

STATES

* * *

Rule Section: § 414.1 Purpose

Comments: As explained above, use of the terms “redemption” and “Storage Credit” results in lack of clarity and ambiguity. The lack of clarity is further demonstrated by citation to Article II(B)(6) of the Decree as legal authority to “develop and redeem storage credits.” If the reader of the proposed rule has considerable understanding of how the interstate mechanism is intended to work, the legal citation can be understood. It is doubtful, however, that a more casual reader of these rules would understand how Article II(B)(6) provides legal authority for this concept.

**Proposed
Amendment:**

This part sets forth the procedural framework for approval by the Secretary of the Interior of interstate agreements for the offstream storage of Colorado River water in the Lower Division States by State-authorized entities consistent with State law. In accordance with the Secretary's authority under Article II (B) (6) of the Decree entered March 9, 1964 (376 U.S. 340), in the case of *Arizona v. California, et al.* as supplemented and amended, this part also includes the procedural framework FOR THE SECRETARY TO MAKE AVAILABLE INTENTIONALLY CREATED UNUSED APPORTIONMENT TO LOWER DIVISION STATES PURSUANT TO INTERSTATE STORAGE AGREEMENTS to develop and redeem storage credits associated with Colorado River water stored offstream by authorized entities consistent with State law. This part does not address intrastate storage or distribution of water not subject to an Interstate Storage Agreement.

* * *

Rule Section: § 414.2 Definition of “Authorized Entity”

Comment: The phrase “or other entity . . . holding entitlements” suggests that all entities must hold an entitlement in order to qualify as an “Authorized Entity.” The AWBA does not hold an entitlement. Holding an entitlement does not need to be a prerequisite to participating in Interstate Storage Agreements. It is of much greater significance that the entities be specifically authorized to participate by State law because the transactions involve the apportionments to Colorado River Water held by the individual States.

The fourth item on the list in § 414.2 is unnecessary. It uses the terms “redeem” and “Storage Credits,” which are discussed above, and creates further confusion or redundancy by suggesting that the terms mean something other than developing or acquiring Intentionally Created Unused Apportionment, which are specifically mentioned in items 2 and 3 in the list. This fourth item should be deleted from the proposed rule.

Proposed

Amendment:

Authorized entity means a State water banking authority, or other entity of a Lower Division State ~~holding entitlements to Colorado River water,~~ expressly authorized pursuant to applicable laws of Lower Division States to:

- (1) Enter into Interstate Storage Agreements;
- (2) Develop intentionally created unused apportionment; OR
- (3) Acquire the right to use intentionally created unused apportionment; or
- ~~(4) Develop or redeem storage credits for the benefit of an authorized entity in another Lower Division State.~~

* * *

Rule Section:

§ 414.2 Definition of “Consuming State”

Comment:

For the reasons discussed above, the phrase “redeeming storage credits” should be deleted.

Proposed

Amendment:

Consuming State means a Lower Division State where INTENTIONALLY CREATED UNUSED APPORTIONMENT ~~water made available by redeeming storage credits is or will be used.~~

* * *

Rule Section:

§ 414.2 Definition of “Intentionally Created Unused Apportionment”

Comment:

This definition should specify that Intentionally Created Unused Apportionment is created by the Storing State using water previously stored pursuant to an Interstate Storage Agreement in place of water that would otherwise be diverted by the Storing State from the Colorado River. This mechanism is the only one mentioned in the proposed rule, but the proposed rule never specifies that this is the only allowable mechanism. Other mechanisms that might create Intentionally Created Unused Apportionment, such as land fallowing, would require limitations and

details not established by the proposed rule. Also, any intimation that Intentionally Created Unused Apportionment could be created through the forbearance from use of Entitlements not previously exercised, which would have a detrimental impact on other entitlement holders, should be eliminated.

Because Article II(B)(6) of the Decree is the legal authority by which Intentionally Created Unused Apportionment is to be made available by the Secretary to a Consuming State in satisfaction of an Interstate Storage Agreement, that provision should be cited.

For the reasons discussed above, the phrase “redemption of storage credits” should be deleted.

**Proposed
Amendment:**

Intentionally created unused apportionment means unused apportionment that is created solely as a result of an agreement within a Storing State USING WATER PREVIOUSLY STORED PURSUANT TO AN INTERSTATE STORAGE AGREEMENT IN PLACE OF WATER WITHIN ITS APPORTIONMENT THAT THE STORING STATE WOULD HAVE OTHERWISE DIVERTED FROM THE MAINSTREAM for the purposes of making Colorado River water available for use in a Consuming State PURSUANT TO ARTICLE II(B)(6) OF THE DECREE in ACCORDANCE WITH fulfillment of a request for redemption of storage credits pursuant to an Interstate Storage Agreement.

* * *

Rule Section:

§ 414.2 Definition of “Interstate Storage Agreement”

Comment:

Use of the phrase “storage . . . for authorized entities in Consuming State” indicates that those Authorized Entities might hold the right to use the water in storage in the Storing State. Within Arizona, the right to use that water will be held by the AWBA until the right is distributed by the AWBA, in order to create Intentionally Created Unused Apportionment, to Colorado River users in Arizona that would otherwise divert mainstream water. This language should be clarified to specify that an Authorized Entity in a Consuming State will not obtain water rights within the Storing State under an Interstate Storage Agreement.

Use of the phrase “recovery of the stored water” is nondescriptive. Specify

that the Interstate Storage Agreement shall provide for the creation and delivery of Intentionally Created Unused Apportionment.

**Proposed
Amendment:**

Interstate storage agreement means an agreement, consistent with this part, ~~AMONG AUTHORIZED ENTITIES OF TWO OR MORE LOWER DIVISION STATES~~ that provides for offstream storage of Colorado River water BY AN AUTHORIZED ENTITY in a Storing State for FUTURE USE IN THE STORING STATE IN PLACE OF WATER WITHIN THE STORING STATE'S APPORTIONMENT THAT THE STORING STATE WOULD ~~HAVE OTHERWISE DIVERTED~~ FROM THE MAINSTREAM, THEREBY MAKING AVAILABLE INTENTIONALLY CREATED UNUSED APPORTIONMENT TO AUTHORIZED ENTITIES IN CONSUMING STATES ~~authorized entities in Consuming States and for the recovery of the stored water.~~ An Interstate Storage Agreement ~~will be among authorized entities of two or more Lower Division States and~~ may include other entities that are determined to be appropriate to the performance and enforcement of the agreement under Federal law and the respective laws of the Storing State and the Consuming State.

* * *

Rule Section: § 414.2 Definition of "Storage Credit"

Comment: As explained above, use of the term "Storage Credit" lacks clarity and is ambiguous. The AWBA recommends the term and definition be deleted from the proposed rule.

**Proposed
Amendment:**

~~*Storage Credit* refers to an accounting device to reflect a quantity of Colorado River water that is stored offstream.~~

* * *

Rule Section: § 414.2 Definition of "Storing State"

Comment: The definition does not tie water storage to interstate transactions contemplated by the proposed rule. Therefore, any state in which Colorado River water is stored offstream meets the definition of this term. The proposed rule should be amended to more specifically define a Storing State as one participating in an interstate transaction under the proposed

rule.

**Proposed
Amendment:**

Storing State means a Lower Division State in which water is stored off the mainstream FOR FUTURE USE IN THAT STATE, IN ACCORDANCE WITH AN INTERSTATE STORAGE AGREEMENT, IN PLACE OF WATER WITHIN THE STORING STATE'S APPORTIONMENT THAT THE STORING STATE WOULD ~~HAVE~~ OTHERWISE ~~DIVERTED~~ FROM THE MAINSTREAM.

* * *

Rule Section:

§ 414.2 Definition of "Unused Entitlement"

Comment:

This term is used in the proposed rule only in § 414.3(a). As is discussed below in the Comment on that section, reference to "Unused Entitlement" is inappropriate in that section and should be deleted. Therefore, this term need not be defined.

**Proposed
Amendment:**

Unused entitlement means any Colorado River water that is made available to but not scheduled and used by an entitlement holder during the year for which it is made available.

* * *

Rule Section:

§ 414.3(a)

Comment:

The citation to Article II(B)(6) of the Decree as legal authority for entering into Interstate Storage Agreements is inappropriate. That Article should be cited in this section but in support of the proposition that Intentionally Created Unused Apportionment may be made available by the Secretary to an Authorized Entity in a Consuming State in accordance with an Interstate Storage Agreement.

The type of interstate transaction that is of interest to the AWBA, in which the AWBA would likely participate and which should be the subject of the proposed rule are those in which the Lower Division States are allowed to make fuller use of their apportionments of Lower Colorado River water within the language of the Decree. Because those apportionments are held by the three States, only entities specifically authorized by those States should be allowed to participate in these interstate transactions, and only to the extent authorized by each State and in accordance with the Decree. There is nothing in the Decree that would allow an individual entitlement

holder to store “unused entitlement” “for the credit of an authorized entity in a Consuming State,” and the AWBA would not participate in a program that allowed for such an event. Therefore, reference to “unused entitlement” should be stricken.

For the reasons discussed above, the phrases “for the credit” and “subsequent redemption of the credit” should be deleted. Further, although the AWBA proposes deleting reference to the term “Storage Credit” completely from the proposed rule, if this proposal is not accepted, in this section the defined term “Storage Credit” should be used in place of the undefined term “credit.”

**Proposed
Amendment:**

Sec. 414.3 Interstate storage agreements and redemption of storage credits.

(a) Interstate storage agreements. ~~In accordance with Article II(B)(6) of the Decree, a~~ Authorized entities of two or more Lower Division States may enter into Interstate Storage Agreements subject to the approval of the Secretary in accordance with paragraph (b) of this section. ~~An Interstate Storage Agreement will PROVIDE FOR allow an authorized entity in a Storing State to store unused entitlement and/or unused apportionment IN THE STORING STATE FOR FUTURE USE IN PLACE OF WATER WITHIN ITS APPORTIONMENT THAT THE STORING STATE WOULD HAVE OTHERWISE DIVERTED FROM THE MAINSTREAM, THUS CREATING INTENTIONALLY CREATED UNUSED APPORTIONMENT THAT SHALL BE MADE AVAILABLE BY THE SECRETARY, IN ACCORDANCE WITH ARTICLE II(B)(6) OF THE DECREE, TO AN AUTHORIZED ENTITY IN A CONSUMING STATE~~ for the credit of an authorized entity located in a Consuming State and will provide for the subsequent redemption of the credit. Such an agreement must:

* * *

Rule Section: § 414.3(a)(2)

Comment: The proposed rule authorizes only the storage of Basic Apportionment of the Storing State pursuant to an Interstate Storage Agreement. The AWBA is authorized by Arizona law to store any part of Arizona’s Colorado River apportionment that is not used or stored by other Arizona water users. This authority includes Arizona’s share of Surplus Apportionment. See A.R.S. § 45-2401(F)(1). Further, the AWBA asserts

that Arizona, and any other Lower Division State, currently has the legal authority to divert for storage or use within that State any water apportioned to it by the Decree. Therefore, the proposed rule should not purport to narrow the Lower Division States' current authority and should allow for storage of Surplus Apportionment, as well as Basic Apportionment, of the Storing State pursuant to an Interstate Storage Agreement.

The provision allowing for storage of a Consuming State's unused apportionment in a Storing State should be amended to clarify that unused apportionment delivered for these purposes would be delivered to the Storing State pursuant to Article II(B)(6) of the Decree.

**Proposed
Amendment:**

2) Specify whether the water to be stored will be basic apportionment OR SURPLUS APPORTIONMENT ~~from OF~~ the Storing State or unused basic apportionment or unused surplus apportionment of the Consuming State. If it is to be unused apportionment, it may only be made available from the Consuming State BY THE SECRETARY TO THE STORING STATE IN ACCORDANCE WITH ARTICLE II(B)(6) OF THE DECREE and the agreement must so specify.

* * *

Rule Section: § 414.3(a)(3)

Comment: For the reasons discussed above, the term "Storage Credit" should be deleted.

**Proposed
Amendment:**

(3) Specify the ~~MAXIMUM~~ quantity of INTENTIONALLY CREATED UNUSED APPORTIONMENT storage credits ~~associated with water stored offstream~~ that will be available to the authorized entity in the Consuming State ~~at the time water is actually stored under PURSUANT TO~~ the agreement.

* * *

Rule Section: § 414.3(a)(4)

Comment: Instead of protecting the Storing State from requests for Intentionally Created Unused Apportionment by the Consuming State only in the year in which the water is stored, the protection offered the Storing State by this

section should guarantee that the Storing State will never be required to create Intentionally Created Unused Apportionment in an amount that exceeds the amount of water currently in storage pursuant to an Interstate Storage Agreement in the Storing State.

For the reasons discussed above, the terms “Storage Credit” and “redeemed” should be deleted.

**Proposed
Amendment:**

(4) Specify that INTENTIONALLY CREATED UNUSED APPORTIONMENT MAY NOT BE REQUESTED BY THE AUTHORIZED ENTITY IN THE CONSUMING STATE IN AN AMOUNT THAT EXCEEDS THE AMOUNT OF WATER THEN IN STORAGE PURSUANT TO AN INTERSTATE STORAGE AGREEMENT IN THE STORING STATE. ~~accumulated storage credits may not be redeemed within the same calendar year in which the water that generated those credits was stored offstream.~~

* * *

Rule Section:

§ 414.3(a)(5)

Comment:

November 30 is likely too late in the year to provide notice to the Storing State that it will be required to create Intentionally Created Unused Apportionment in the following year. The proposed rule should allow the parties and the Secretary to reach a mutually acceptable date for the notice in the Interstate Storage Agreement.

For the reasons discussed above, the term “Storage Credit” should be deleted.

**Proposed
Amendment:**

(5) Specify that, BY A DATE CERTAIN TO BE SPECIFIED IN THE INTERSTATE STORAGE AGREEMENT, the authorized entity in the Consuming State will provide notice to the Lower Division States and to the Secretary ~~no later than November 30~~ of its intention to request delivery of a specific quantity of INTENTIONALLY CREATED UNUSED APPORTIONMENT ~~Colorado River water by redeeming accumulated storage credits~~ in the following calendar year.

* * *

Rule Section: § 414.3(a)(6) and (7)

Comment: Sections 414.3(a)(6) and (7) are redundant, or at least very closely related, and should be combined.

For the reasons discussed above, the term “Storage Credit” should be deleted.

For the reasons discussed above, the proposed rule should specify that use of previously stored water is the only allowable method to create Intentionally Created Unused Apportionment.

The section should clearly explain the mechanism by which the Storing State creates Intentionally Created Unused Apportionment and how that relates to additional water delivered to the Consuming State.

The section should specify that Intentionally Created Unused Apportionment created by the Authorized Entity in the Storing State should only be made available to the Authorized Entity in the Consuming State.

**Proposed
Amendment:**

(6) Specify that the authorized entity of a Storing State, after receiving a notice of intention to REQUEST DELIVERY OF A SPECIFIC QUANTITY OF INTENTIONALLY CREATED UNUSED APPORTIONMENT ~~redeem offstream storage credits~~, will USE WATER PREVIOUSLY STORED PURSUANT TO AN INTERSTATE STORAGE AGREEMENT ~~take actions~~ to ensure that the Storing State's consumptive use of Colorado River water will be decreased by a quantity sufficient to develop THE REQUESTED AMOUNT OF intentionally created unused apportionment to offset the ~~delivery of Colorado River water~~ WHICH SHALL BE MADE AVAILABLE BY THE SECRETARY TO THE AUTHORIZED ENTITY for use in the Consuming State in fulfillment of the storage credits.

~~(7) Specify which actions the authorized entity will take to develop intentionally created unused apportionment.~~

* * *

Rule Section: § 414.3(a)(8)

Comment: For the reasons discussed above, the term “Storage Credit” should be deleted.

The section should specify that Intentionally Created Unused Apportionment should be delivered to the participating Authorized Entity in the Consuming State.

**Proposed
Amendment:**

(8) Specify ~~that THE PROCEDURE UNDER WHICH~~ the authorized entity of the Storing State ~~must~~ WILL certify to the Secretary that intentionally created unused apportionment has been ~~OR WILL BE~~ developed that would not otherwise exist and ~~that, IN ACCORDANCE WITH THE INTERSTATE STORAGE AGREEMENT, the authorized entity~~ will request the Secretary to make available that quantity of Colorado River water TO THE AUTHORIZED ENTITY for use in the Consuming State pursuant to Article II(B)(6) of the Decree ~~to redeem storage credits.~~

* * *

Rule Section:

§ 414.3(b)

Comment:

The word “should” is unclear. If the procedure outlined is mandatory, the word “shall” must be used. If the procedure outlined is permissive, the word “may” must be used.

**Proposed
Amendment:**

b) Approval by the Secretary. A request for approval of an Interstate Storage Agreement SHALL ~~should~~ be made in writing to the Secretary. The request will be acknowledged in writing by the Secretary within 10 business days of receipt. The request SHALL ~~should~~ include copies of the proposed interstate agreement and any additional supporting data that clearly set forth the details of the proposed transaction. . . .

* * *

Rule Section:

§ 414.3(c)

Comment:

For the reasons discussed above, the term “Storage Credit” should be deleted.

~~This section should be amended to clarify the sequence of events that would occur before water is delivered to the Consuming State.~~

**Proposed
Amendment:**

(c) Stored water. The authorized entity of the Storing State will account

for the water diverted and stored offstream under an Interstate Storage Agreement, and ~~prior to any~~ ~~AFTER RECEIVING FROM A CONSUMING STATE A NOTICE OF INTENTION TO REQUEST BY A CONSUMING STATE FOR~~ DELIVERY OF INTENTIONALLY CREATED UNUSED APPORTIONMENT, THE ~~AUTHORIZED ENTITY OF THE~~ STORING STATE redemption of storage credits will certify to the Secretary that SUFFICIENT water associated with storage credits has been stored FOR THE STORING STATE TO CREATE ~~A SPECIFIED THE REQUESTED~~ AMOUNT OF INTENTIONALLY CREATED UNUSED APPORTIONMENT.

* * *

Rule Section: § 414.3(d)

Comment: For the reasons discussed above, the term “Storage Credit” should be deleted.

This section should more clearly specify that, if all terms of the proposed rule and Interstate Storage Agreement are met, the Secretary will make available the Intentionally Created Unused Apportionment to the Authorized Entity in the Consuming State.

Proposed Amendment:

(d) DELIVERY OF INTENTIONALLY CREATED UNUSED APPORTIONMENT Redemption of storage credits. ~~The~~ ~~IF THE~~ Secretary ~~must be~~ ~~IS~~ satisfied that ALL necessary actions have been taken PURSUANT TO THIS PART AND THE INTERSTATE STORAGE AGREEMENT to develop ~~THE REQUESTED AMOUNT OF~~ intentionally created unused apportionment for redemption of storage credits. ~~Once this determination has been made,~~ the Secretary will make available THE REQUESTED AMOUNT OF INTENTIONALLY CREATED UNUSED APPORTIONMENT TO THE AUTHORIZED ENTITY IN THE CONSUMING STATE a quantity of Colorado River water to redeem those credits consistent with the BCPA, Article II(B)(6) of the Decree, and all other applicable laws. Intentionally created unused apportionment that is developed by the authorized entity of the Storing State will be made available to the authorized entity of the Consuming State and will not be made available to other contractors or Federal entitlement holders.

* * *

Rule Section: § 414.4

Comment: The reporting date should be made more flexible. Under Arizona's underground water storage program, annual reports of water storage are not required to be submitted to the Arizona Department of Water Resources for storage credit calculation until March 31 for the previous year. A.R.S. § 45-875.01. It then can take several months for the Department to review and process those reports. The AWBA would be unlikely to have its credit balance for the previous year until July.

The section should specify that only the Authorized Entity in a Storing State need report storage amounts to the Secretary.

The suggestion that water is stored in the Storing State "on behalf of" water users outside that State should be eliminated.

For the reasons discussed above, the term "Storage Credits" should be deleted.

**Proposed
Amendment:**

Reporting requirements and accounting UNDER INTERSTATE STORAGE AGREEMENTS for storage credits.

Each authorized entity OF A STORING STATE will annually report to the Secretary, BY A DATE TO BE AGREED UPON BY THE PARTIES AND THE SECRETARY by January 31, the quantity of water it diverted and stored DURING THE PRIOR YEAR PURSUANT TO AN INTERSTATE STORAGE AGREEMENT AND THE TOTAL AMOUNT OF WATER STORED AND AVAILABLE FOR THE AUTHORIZED ENTITY TO CREATE INTENTIONALLY CREATED UNUSED APPORTIONMENT PURSUANT TO AN INTERSTATE STORAGE AGREEMENT on behalf of authorized users in other Lower Division States and the balance of storage credits remaining in interstate storage for each entity as of December 31 of the prior calendar year. This water will be accounted for, in the records maintained by the Secretary under Article V of the Decree, as a consumptive use in the Storing State for the year in which it is stored. The Secretary will maintain individual balances of THE AMOUNT OF INTENTIONALLY CREATED UNUSED APPORTIONMENT THAT MAY BE REQUESTED BY AN AUTHORIZED ENTITY IN A CONSUMING STATE storage credits established by the offstream storage of water under Interstate Storage Agreements. The balances will be reduced when intentionally created unused apportionment is developed by the authorized entity in a Storing

State and made available for use BY AN AUTHORIZED ENTITY in a Consuming State. In the records maintained by the Secretary under Article V of the Decree, the taking of unused apportionment for use in a Consuming State by an authorized entity in ACCORDANCE WITH AN INTERSTATE STORAGE AGREEMENT redemption of its storage credits will be accounted for as consumptive use by the Consuming State of unused apportionment in the year the water is used, the same as with any other unused apportionment taken by that State.

* * *

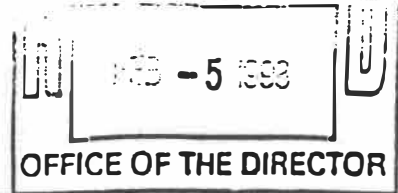
Rule Section: § 414.5(a)

Comment: The defined term “Interstate Storage Agreement” should be used in place of the undefined term “interstate agreement.”

Proposed Amendment: (a) No guarantee of water quality. The Secretary does not warrant the quality of water released or delivered under interstate STORAGE agreements, and the United States will not be liable for damages of any kind resulting from water quality problems. The United States will not be under any obligation to construct or furnish water treatment facilities to maintain or improve water quality standards.



Arizona Power Authority



1810 W. ADAMS ST., PHOENIX, AZ 85007-2697

TELEPHONE (602) 542-4263 • FAX (602) 253-7970

February 5, 1998

Ms. Rita Pearson, Chairman
Water Banking Authority
500 North Third Street
Phoenix, Arizona 85004-3903

RE: Comments on Bureau of Reclamation
Water Banking Regulations

Dear Rita:

In reviewing Reclamation's proposed Regulations on Water Banking, we noted there is no mention of the impacts of water banking on the production of power, and the potential cost of power, to Contractors of the Boulder Canyon and Parker-Davis Projects.

Water banking appears to have two (2) impacts on power users within the State of Arizona. In the first instances, the generation of power caused by water passing through Hoover and Davis generators on its way to be banked would create additional power for Boulder Canyon and Parker-Davis customers, while requiring more power be utilized by CAWCD in lifting the water to the banking site. When the water is being withdrawn, assuming that Nevada is the depositor of the water, the water would be taken from Lake Mead and would, therefore, not produce power at either Hoover or Davis Dam. While the amount of water involved would be relatively small compared with the 9,000,000 acre feet delivered in the Lower Basin and to Mexico each year, we believe it would be helpful to analyze the impacts using Reclamation's study models.

Our second concern is not on a global basis, but rather on those pumpers who, through in-lieu storage, have taken canal water rather than pumping during the years when the water was being banked and are then required to go back to groundwater pumping which, in many cases, requires more power during the years when the water is being withdrawn from the bank and generation at Hoover and Davis Dams are somewhat reduced.

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STAFF

2/5/98

While the Regulations proposed by Reclamation do not deal with the charges involved in a banking transaction, we believe it would be helpful for DWR to include in its comments mention of the fact that there is a potentially greater power cost to the banking district because of the reduced power supply and the greater demand required by the withdrawal transaction.

We believe that having brought this condition to the attention of Reclamation, nothing in the Regulations as currently proposed would prevent the Water Banking Authority and the entity storing the water from including in their contract adequate compensation to assure that the higher price of power during the withdrawal period is accommodated.

We appreciate this opportunity to comment, and will be happy to work with you in devising adequate means to assure that Arizona power users do not wind up paying an additional charge because of the water banking activity.

If you have any questions or need further information, please call Tom Hine at 602/870-1828.

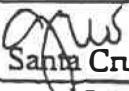
Very truly yours,

A handwritten signature in cursive script that reads "Mark S. Mitchell". The signature is written in black ink and is positioned above the typed name and title.

Mark. S. Mitchell
Executive Director

SANTA CRUZ WATER & POWER DISTRICTS ASSOCIATION

Memo

To:	Tim Henley Manager, Arizona Water Banking Authority	Date	February 6, 1998
From:	Grant R. Ward  General Manager, Santa Cruz Water & Power Association	File Ref:	
Subject:	Comments on Proposed Interstate Water Banking Rules ("Proposed Rules")		

This memorandum is in response to your memorandum of January 28, 1998 pertaining to the input of interested parties on the proposed comments of the Authority to the Proposed Rules. We are generally in agreement with all of your suggestions pertaining to modifying the multiple references to "Interstate Redemption Of Storage Credits" and replacing these references with the concept of "creation and delivery of intentionally created unused apportionment". This more accurately reflects the Federal role in this process which is not to focus on redemption of storage credits but rather authorize the creation and delivery of the intentionally created unused apportionment under the Arizona v California Decree.

We support the definitional changes proposed in section 412.2 of the Proposed Rules. Also of particular importance, are your suggestions for modifying sections 414.3 (a) and (a) (2) which are intended to more clearly limit and identify "authorized entities" and ensure that a Storing State be able to store its "Surplus Apportionment" as well as its "Basic Apportionment". These recommendations are critically important. We also support your clarification to section 414.3 (a)(6) and (7) to limit the methods to creating "Intentionally Created Unused Apportionment" to the use of previously stored water.

Unfortunately, your comments do not contain any expressions of concern regarding section 414.3 (b), which deals with the "Approval by the Secretary" of any Interstate Storage Agreement. This approval process, including the factors to be considered by the Secretary, could undoubtedly delay the implementation of any Interstate Storage Agreement for a long period of time and could impede the implementation of such agreements for any number of reasons, including political reasons such as leverage in contract negotiations, or environmental concerns based on "bad science" or Indian water rights issues based on out dated or faulty hydrology. Without more accountability, the Secretary could utilize these types of strategies to unreasonably delay and even totally frustrate the implementation of an agreement which makes good sense for the parties involved. It may be appropriate to propose more accountability for the Secretary's approval decision through adoption of expedited appeal mechanisms. At a minimum, we would encourage the Authority to consider an expression of concern pertaining to the seemingly unlimited ability of the Secretary to delay or impede the approval process.

It is the intention of this Association to prepare and submit its own comments by the March 2, 1998 deadline. Nevertheless, we appreciate the efforts of the Authority and the Arizona Department of Water Resources in taking the lead on this matter.

Kathleen Ferris

A t t o r n e y

2425 East Camelback Road, Suite 950
Phoenix, Arizona 85016

Phone (602) 381-2561
Fax (602) 381-2562

February 6, 1998

Via Fax No. 417-2401

Mr. Tim Henley
Manager
Arizona Water Banking
Authority
500 North Third Street
Phoenix, Arizona 85004

Re: AWBA Comments on Proposed Rule Regarding Offstream
Storage of Colorado River Water and Interstate
Redemption of Storage Credits in the Lower Division
States

Dear Tim:

I have reviewed the Arizona Water Banking Authority's draft comments on the proposed rule. In general, I think the changes you are suggesting greatly improve the rule's clarity and will help to protect Arizona's entitlement to Colorado River water. On behalf of the Arizona Municipal Water Users Association, I offer some additional changes to further improve the proposed rule.

§ 414.2 Definition of "Interstate Storage Agreement"

I suggest your proposed definition modified as follows:

Interstate storage agreement means an agreement, consistent with this part, AMONG AUTHORIZED ENTITIES OF TWO OR MORE LOWER DIVISION STATES that provides for offstream storage of Colorado River water BY AN AUTHORIZED ENTITY in a Storing State for FUTURE USE IN THE STORING STATE IN PLACE OF WATER WITHIN THE STORING STATE'S APPORTIONMENT THAT THE STORING STATE WOULD ~~HAVE~~ OTHERWISE ~~DIVERTED~~ FROM THE MAINSTREAM, THEREBY MAKING AVAILABLE INTENTIONALLY CREATED UNUSED APPORTIONMENT TO authorized entities in Consuming States ~~and for the recovery of the stored water.~~ An Interstate Storage Agreement ~~will be among authorized entities of two or more Lower Division States and~~ may include

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other entities that are determined to be appropriate to the performance and enforcement of the agreement under Federal law and the respective laws of the Storing State and the Consuming State.

One of the key components of an interstate storage agreement is that it must be among authorized entities of lower division states. This notion should be set forth early in the definition. The fact that other entities might also be parties to the agreement can be left to the second sentence of the definition. Additionally, I am suggesting that the clause "that the storing state would have otherwise diverted from the mainstream" be changed to "that the storing state would otherwise divert from the mainstream" because it better conveys the idea that this action is prospective.

§ 414.2 Definition of "Storing State"

I suggest your proposed definition be conformed as follows:

Storing State means a Lower Division State in which water is stored off the mainstream FOR FUTURE USE IN THAT STATE, IN ACCORDANCE WITH AN INTERSTATE STORAGE AGREEMENT, IN PLACE OF WATER WITHIN THE STORING STATE'S APPORTIONMENT THAT THE STORING STATE WOULD HAVE OTHERWISE DIVERTED FROM THE MAINSTREAM.

§ 414.3(a)

Your proposed modification of this paragraph reiterates the definition of "interstate storage agreement" and part of the definition of "intentionally created unused apportionment" and may cause confusion. I think the definitions, if properly drafted, will control the interpretation of the rest of the rule and would amend your proposed modification as follows:

(a) Interstate storage agreements. In accordance with Article II(B)(6) of the Decree, authorized entities of two or more Lower Division States may enter into Interstate Storage Agreements subject to the approval of the Secretary in accordance with paragraph (b) of this section. An Interstate Storage Agreement will PROVIDE FOR allow an authorized entity in a Storing State to store unused entitlement and/or unused apportionment

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~~IN THE STORING STATE FOR FUTURE USE IN PLACE OF WATER WITHIN ITS APPORTIONMENT THAT THE STORING STATE WOULD HAVE OTHERWISE DIVERTED FROM THE MAINSTREAM, THUS CREATING INTENTIONALLY CREATED UNUSED APPORTIONMENT THAT SHALL BE MADE AVAILABLE BY THE SECRETARY, IN ACCORDANCE WITH ARTICLE II(B)(6) OF THE DECREE, TO AN AUTHORIZED ENTITY IN A CONSUMING STATE for the credit of an authorized entity located in a Consuming State and will provide for the subsequent redemption of the credit. Such an agreement must:~~

§ 414.3(a)(2)

I suggest a minor change to your proposed language as follows:

2) Specify whether the water to be stored will be basic apportionment OR SURPLUS APPORTIONMENT ~~from~~ OF the Storing State or unused basic apportionment or unused surplus apportionment of the Consuming State. If it is to be unused apportionment, it may only be made available from the Consuming State BY THE SECRETARY TO THE STORING STATE IN ACCORDANCE WITH ARTICLE II(B)(6) OF THE DECREE and the agreement must so specify.

§ 414.3(a)(3)

This item requires an Interstate Storage Agreement to specify the quantity of intentionally created unused apportionment that will be made available by the agreement. Will the agreements be that specific? If not, I suggest the following change:

3) Specify the MAXIMUM quantity of INTENTIONALLY CREATED UNUSED APPORTIONMENT ~~storage credits associated with water stored offstream~~ that will be available to the authorized entity in the Consuming State at the time water is actually stored under PURSUANT TO the agreement.

§414.3(a)(8)

This item requires an interstate storage agreement to specify that the Storing State will certify to the Secretary that intentionally

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created unused apportionment has been created and will request that the Secretary make this water available to the Consuming State. This is a vague provision and seems totally unnecessary in light of § 414.3(c) which requires the same thing, but with more specificity. If this item is necessary, I suggest it be amended as follows:

(8) Specify that THE PROCEDURES UNDER WHICH the authorized entity of the Storing State ~~must~~ WILL certify to the Secretary that intentionally created unused apportionment has been developed that would not otherwise exist and ~~that, IN ACCORDANCE WITH THE INTERSTATE STORAGE AGREEMENT, the authorized entity~~ will request the Secretary to make available that quantity of Colorado River water TO THE AUTHORIZED ENTITY ~~for use~~ in the Consuming State pursuant to Article II(B)(6) of the Decree ~~to redeem storage credits.~~

§ 414.3(c)

This paragraph appears to address the timing of notice to the Secretary that the Storing State has received a request from a Consuming State for delivery of intentionally created unused apportionment. As drafted and as proposed by AWBA, this language may create some unintended timing problems. For example, why is the Storing State required to certify the amount of intentionally created unused apportionment before receiving a request from a Consuming State? I suggest the AWBA proposal be amended as follows:

(c) Stored water. The authorized entity of the Storing State will account for water diverted and stored offstream under an Interstate Storage Agreement, and ~~prior to any~~ AFTER RECEIVING FROM A CONSUMING STATE A NOTICE OF INTENTION TO REQUEST BY A CONSUMING STATE FOR DELIVERY OF A SPECIFIED QUANTITY OF INTENTIONALLY CREATED UNUSED APPORTIONMENT, THE STORING STATE ~~redemption of storage credits~~ will certify to the Secretary that SUFFICIENT water ~~associated with storage credits~~ has been stored FOR THE STORING STATE TO CREATE A SPECIFIED AMOUNT OF INTENTIONALLY CREATED UNUSED APPORTIONMENT.

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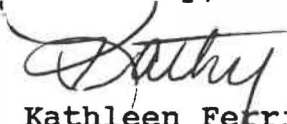
§ 414.3(d)

The proposed AWBA language needs further clarification as follows:

(d) DELIVERY OF INTENTIONALLY CREATED UNUSED APPORTIONMENT ~~Redemption of storage credits.~~ IF the Secretary ~~must be~~ IS satisfied that ALL necessary actions have been taken PURSUANT TO THIS PART AND THE INTERSTATE STORAGE AGREEMENT to develop THE REQUESTED AMOUNT of intentionally created unused apportionment ~~for redemption of storage credits. Once this determination has been made,~~ the Secretary will make available THE REQUESTED AMOUNT OF INTENTIONALLY CREATED UNUSED APPORTIONMENT TO THE AUTHORIZED ENTITY IN THE CONSUMING STATE a ~~quantity of Colorado River water to redeem these credits~~ consistent with the BCPA, Article II(B)(6) of the Decree, and all other applicable laws. Intentionally created unused apportionment that is developed by the authorized entity of the Storing State will made available to the authorized entity of the Consuming State and will not be made available to other contractors or Federal entitlement holders.

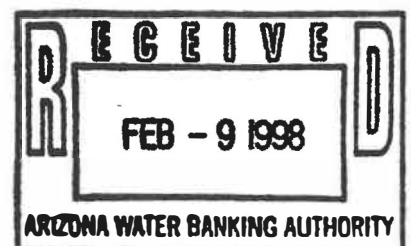
We appreciate the opportunity to comment on AWBA's proposed changes to the rule. Please feel free to call me if you have any questions.

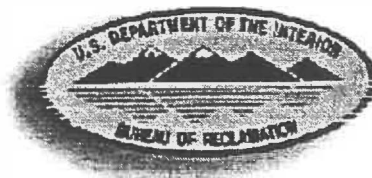
Sincerely,



Kathleen Ferris

cc: Chuck Cahoy (Via Fax No. 417-2415)
Roger Manning (Via Fax No. 248-8423)





Bureau of Reclamation
Lower Colorado Regional Office

Public Hearing

Proposed Rule for Offstream Storage of Colorado River Water

February 23, 1998

On December 31, 1997, the Bureau of Reclamation published a notice of proposed rulemaking (62 FR 68491), and the text of a proposed rule entitled "Offstream Storage of Colorado River Water and Interstate Redemption of Storage Credits in the Lower Division States."

In response to that notice, Reclamation received one request to conduct a public hearing in Ontario, California. The hearing will be held on Monday, February 23, 1998, at the Doubletree Hotel Ontario, 222 North Vineyard. The hearing will begin at 1 p.m. and continue until all persons wishing to testify have had an opportunity to do so. All testimony will become part of the public record.

To allow everyone who wishes to testify on the proposed rule or draft programmatic environmental assessment the opportunity to be heard, initial oral statements will be limited to 10 minutes. After all persons wishing to testify have done so, Reclamation will consider allowing additional time to those who request it.

To help Reclamation prepare for this hearing, please notify us in advance of your desire to testify and provide an advance copy of your testimony. This information should be provided to:

Mr. Dale Ensminger
Boulder Canyon Operations Office
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470
telephone: (702) 293-8659

All persons who make oral statements are also asked to provide a copy of their statement to the transcriber. This will ensure an accurate record of all remarks is obtained.

Reclamation will also accept written comments on the proposed rule and draft programmatic environmental assessment. Comments must be received by Reclamation on or before March 2, 1998, in accordance with the criteria set forth in the December 31, 1997, notice of proposed rulemaking.

There is no limit to the length of written comments, but comments should be specific, confined to the issues pertinent to the proposed rule or the draft programmatic environmental assessment, and should explain the reason for any recommended change. Written comments also may be delivered to the Hearing Examiner at the public hearing in lieu of mailing.

LEGAL WORK PRODUCT FOR SETTLEMENT

DRAFT
1/21/98 5:00 PM

Settlement Outline

1. At a discount rate of seven percent over the repayment period, the net present worth of the repayment stream will equal \$617 million. (The \$617 million figure has been adjusted for the present worth of \$47 million in construction expenditures by CAWCD and \$32 million in HVID credits, and implicitly includes credit for the fair market value of the CAP land exchange.)
2. This repayment stream will be reflected in a final, fixed schedule of payments.
3. All power and miscellaneous revenues will be credited against the payment schedule (including all revenues from Navajo Surplus Power sales other than those pledged to the payment of bonds issued by CAWCD, the Hoover 4.5 mills surcharge, and the Parker-Davis 4.5 mills surcharge).
4. All expenditures by CAWCD to correct CAP construction deficiencies (other than those already included in the calculation of the net present worth of the repayment stream) will be credited against the payment schedule. The parties will develop a list of agreed upon deficiencies to be corrected by CAWCD.
5. The unreimbursed expenses incurred by CAWCD for janitorial services, security services, accrued leave, etc., will be credited against the payment schedule.
6. The disputed Ak-Chin billings will be reconciled with actual OM&R costs.
7. The United States may allocate a total of up to 706,000 acre-feet of Project water to federal uses, including water already allocated to, acquired, or reserved by the United States for federal uses; the federal share of Project water may not exceed 706,000 acre-feet. All Project water will retain the priority originally assigned to it, unless otherwise provided in existing Indian water rights settlements. The United States will not interfere with the assignment or transfer of entitlements to Project water among non-Indian water users.
8. CAWCD may market all Project water available in each year after providing for the demands of contractors and subcontractors of long-term Project water service.
9. During the repayment period, there will be no fixed OM&R charge for delivery of Project water, directly or by exchange, for on-reservation use by existing Indian contractors of Project water service.

10. The costs of the first fill of New Waddell reservoir will be capitalized as a CAP construction cost; there will be no charge to CAWCD for interim use of New Waddell reservoir.

11. CAWCD's excess water contracts and letter agreements will be approved.

12. The Lower Colorado River Basin Development Fund will be administered under an agreed upon management structure with disputes resolved pursuant to a mutually agreed upon dispute resolution procedure.

13. All past payments due will be reconciled to the new payment schedule with simple interest at 3.342 percent per annum on any under/over payments; no penalties will be charged. [The United States contends that the interest rate to be used for assessing interest on under/over payments should be 7 percent.]

14. Subject to appropriations by Congress, the United States will complete all remaining features of the water supply system and regulatory storage stage without additional expense to CAWCD; costs currently planned as construction expenses will not be funded from Project revenues. The parties will develop a list of agreed upon features to be constructed by the United States.

15. The settlement will be embodied in a stipulated judgment entered in District Court.

Unresolved Issues

1. Relationships with federal contractors

CAWCD position: While CAWCD sees no way that the composition of the Board may legally be changed, CAWCD is willing to consider forming user groups to provide input to the CAWCD board, entering into an operating agreement with the United States that addresses relationships with federal contractors, or entering into three party contracts among the United States, CAWCD, and federal contractors as means of dealing with any remaining concerns of federal contractors of Project water service.

2. Groundwater use issues

CAWCD position: CAWCD is willing to consider reasonable proposals by which concerns related to Pinal County groundwater pumping may be addressed.

3. U.S. acquisition of federal water

CAWCD position: This is a federal responsibility; CAWCD will not oppose the United States allocating additional Project water to federal uses (up to a total of 706,000 acre-feet), and will cooperate with the United States in its efforts

to do so, but delays in the federal process, should they occur, should not be reason to delay settlement of the financial issues.

Comparison of the failed 1995 Agreement in Principle with Other US Offers

(All values except rows 1 & 2 are Present Values at 7% in Millions of Dollars)

	1995 Failed AIP	US 1997 Offer	Current US Offer
Total US Water (kaf)	687	706	706
Nominal Capital Amount (\$ Billion) 1	1.90	1.69	1.69 (for example)
Gross Present Worth of Repayment	970	865	617
Credit to CAP for Repairing Construction Deficiencies	-37	-37	Included in Calculation of 617
HVID Credit	-29	-29	Included in Calculation of 617
Back Payment with Interest at 7%		50	?
Cash Contribution from CAP	36		No
Net Present Worth of Repayment	940	849	617
Fixed O&M Paid by US	-323		
Net Payment to US	617	849	617

ARIZONA DEPARTMENT OF WATER RESOURCES

500 North Third Street, Phoenix, Arizona 85004

Telephone (602) 417-2410

Fax (602) 417-2415



JANE DEE HULL
Governor

RITA P. PEARSON
Director

February 9, 1998

Grady Gammage, President
Central Arizona Water Conservation District
23636 North 7th Street
Phoenix, Arizona 85024

Dear Grady:

Thank you for the opportunity to provide comments on the proposed settlement of the Central Arizona Project (CAP) repayment dispute between the Central Arizona Water Conservation District (CAWCD) and the United States Bureau of Reclamation (BOR). These written comments are based upon the oral testimony of Herb Dishlip provided at the Board's meeting on Thursday, February 5, 1998.

The outline of the proposed settlement addresses several issues directly related to CAP water allocations and groundwater management in the Active Management Areas (AMAs) which are the Arizona Department of Water Resources' (Department) primary areas of concern. Over the past few months, the Department has been briefed in general terms by representatives of both CAWCD and the Department of Interior (DOI). We were advised that the focus of discussions between the two parties was on financial issues only and that when water allocation issues arose, the Department would be included in the discussions. Unfortunately, as we review the proposed settlement, more than 240,000 acre-feet (af) of water is proposed to be reallocated to federal purposes. We would urge that the Department be invited to participate directly in any further negotiations with DOI as it relates to water management issues.

Recently, great strides have been made to increase the use of CAP water through incentive programs for agricultural use and water banking. This is a significant accomplishment. The Department is concerned that the revised financial structure proposed in the settlement eliminates the financial break for agricultural water deliveries and consequently, may change the Board's perspective regarding the use of incentive pricing programs to encourage agricultural use of Colorado River water. As you know, the agricultural programs were, in a large part, justified by the capital repayment savings that would accrue due to the interest subsidy from irrigation use. We would like to work with the CAWCD Board to develop new programs which continue to encourage CAP agricultural water use. Based on our analysis of water use within the CAP service area, the half million acre-feet of water delivered annually to the agricultural community since the establishment of CAP target pricing pools has been directly responsible for increases in the groundwater levels in the AMAs.

Grady Gammage, President

February 10, 1998

Page Two

Taking a long-term view of water use in Arizona, the proposed settlement raises serious concerns about whether sufficient CAP water will be available to meet future municipal and industrial (M&I) needs. In that regard, the transfer of the remaining 65,000 af of M&I priority CAP water to federal uses raises serious questions. The need for water in the municipal sector is undoubtedly real. As a result of the Department's analysis of municipal water supplies pursuant to the Assured Water Supply program under the Groundwater Management Code, we are convinced that more M&I priority water will be needed to meet future growth in our communities. If the 65,000 af of CAP water is transferred for financial considerations, an important consideration is whether the cities will end up spending even more money than is initially saved through the settlement in trying to replace this valuable supply of water with alternate supplies.

The Department is also concerned that the original arrangement for CAP water allocation, which clearly contemplated a second round of allocations for any uncontracted CAP water, will not be followed. Had the Department known that the uncontracted water might not be available for a second round of allocations, a much different approach to the original allocation formula would have been used, binding potential allottees before they received a CAP allocation. It is highly probable that the initial water allocations to the mines and electric power industries would not have been made and instead, would have been allocated to cities, towns and private water companies who sought to receive more water than they originally received.

While we are concerned about the transfer of the CAP M&I priority water, the Department also recognizes the importance of Indian water rights settlements and the stability such settlements bring to long-term water management in the state. Whenever public policy forums on water are held such as the Governor's 1994 CAP Advisory Committee and the recent Arizona Town Hall on "Water Quantity and Quality," the settlement of Indian water rights claims is given high priority. If the transfer of the M&I priority water will lead to meaningful progress on Indian settlements, then perhaps the cost of this transfer will be worth it. However, under the terms of the proposed settlement, there is no guarantee that the transfer of this water and CAP agriculture priority water for a total of 240,000 af of additional CAP water to the tribes will lead to the settlement of outstanding water rights claims. There must be a better understanding of how the proposed DOI allocation of the transferred water to Indian communities will be linked to future water rights settlements.

The Department is supportive of attempts to reach an out of court settlement on the financial issues concerning CAP repayment obligations. As you know, the CAP is the cornerstone of the state's groundwater management program. Without fiscal certainty for the CAP, efforts to reduce groundwater overdraft in the AMAs through the use of renewable water supplies is significantly undermined.

There are many encouraging aspects to the proposed settlement and some issues which pose difficult water policy questions. The Department's primary concerns are over water allocation, impacts on groundwater management and future programs which will allow for continued use of

Grady Gammage, President

February 11, 1998

Page Three

the CAP at its maximum capacity. Because of the substantial statewide impacts of the proposed terms of the settlement, the Department would like to be a full participant in any further settlement discussions to assure that the final settlement is not just a reasonable financial arrangement but also supports sound water management principles.

Sincerely,

A handwritten signature in black ink, appearing to read "Rita P. Pearson". The signature is fluid and cursive, with the first name "Rita" being particularly prominent.

Rita P. Pearson

Director

cc: Governor Jane Dee Hull
Maria Baier, Executive Assistant
CAWCD Board Members
Sid Wilson, CAWCD

RPP:kd

ARIZONA WATER BANKING STUDY COMMISSION
Water Banking Benefits Outside of CAP Service Area
Subcommittee Members
Wednesday, January 21, 1998
1:30 p.m. to 3:30 p.m.

Arizona Department of Water Resources
500 North Third Street
Third Floor Conference Room A
Phoenix, Arizona

AGENDA

- | | | |
|-------------|--|---------------------|
| I. | Discussion of mechanisms for forbearance or exchange | Tom Carr |
| II. | Discussion of growth trends and water demands for rural communities | Herb Dishlip |
| III. | Considerations for Interstate Banking Proposed Rules | Herb Dishlip |

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Arizona Water Banking Authority Study Commission at (602) 417-2440 or (602) 417-2455 (TDD). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA WATER BANKING STUDY COMMISSION
Interstate and Intrastate Banking and Marketing Issues Subcommittee
Thursday, January 22, 1998
10:00 a.m. - 12:00 p.m.

Arizona Department of Water Resources
500 North Third Street
Director's Conference Room, Fourth Floor
Phoenix, Arizona

AGENDA

- I. Discussion of Bureau of Reclamation Proposed Rules**
- II. Discussion of issues related to interstate banking agreements and statutory limitations**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Arizona Water Banking Authority Study Commission at (602) 417-2440 or (602) 417-2455 (TDD). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA WATER BANKING STUDY COMMISSION

Indian Issues

Subcommittee Members

Wednesday, January 28, 1998

1:00 p.m. - 3:00 p.m.

Arizona Department of Water Resources

500 North Third Street

Third Floor Conference Room B

Phoenix, Arizona

AGENDA

- I. Opportunities for Indian Community Participation in Interstate Water Banking

- II. Comments on USBR Proposed Rules

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Arizona Water Banking Authority at (602) 417-2440 or (602) 417-2455 (TDD). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA WATER BANKING STUDY COMMISSION

Financing and Tax Issues

Subcommittee Members

Wednesday, February 4 , 1998

9:00 a.m. - 11:00 a.m.

Arizona Department of Water Resources

500 North Third Street

Third Floor Conference Room A

Phoenix, Arizona

AGENDA

- I. Draft Subcommittee Recommendation Concerning Ad Valorem Taxes
- II. Components of Interstate Banking Costs
- III. Implication of Proposed CAP Repayment Issues Settlement on AWBA

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Arizona Water Banking Authority Study Commission at (602) 417-2440 or (602) 417-2455 (TDD). Requests should be made as early as possible to allow time to arrange the accommodation.

Draft
February 4, 1998

Draft for comment before adoption

Arizona Water Banking Authority Study Commission

Finance and Tax Issues Subcommittee

February 4, 1998

Issue: Recommendations for continuation or modification of the tax collected pursuant to A.R.S. §48-3715.02.

Background

In establishing the Arizona Water Banking Study Commission, the Legislature described four areas to be studied. One of the areas specifically identified was to make recommendations for continuation or modification of the tax collected pursuant to A.R.S. §48-3715.02. A.R.S. §48-3715.02 is a statutory reference located within Title 48 Chapter 22, which describes the authority and purpose of multi-county water conservation districts. The Central Arizona Water Conservation District (CAWCD) is the only district that has ever been established pursuant to these statutes. The CAWCD was originally created as the political entity responsible for contracting with the U.S. Bureau of Reclamation for the repayment of reimbursable costs associated with the Central Arizona Project (CAP). Over time the CAWCD's functions have expanded and they are now responsible for the operation of the CAP and for groundwater replenishment. The CAWCD is governed by a fifteen member board of directors who are popularly elected from within Maricopa, Pinal and Pima Counties.

The CAWCD has the power to levy property tax within its service area. In 1990 an additional taxing authority was granted by the Legislature for the purpose of water storage. The water storage tax was limited to no more than four cents per hundred dollars of assessed

Draft
February 4, 1998

valuation and was limited to Maricopa and Pima Counties. This tax was associated with the state demonstration recharge program which CAWCD was directed to implement in those counties. The tax authority was to expire after five years.

In 1994 the Legislature amended §48-3715.02 and extended the four cent taxing authority through the year 2001 and also provided for levying the tax in Pinal County. The extended tax would no longer be used for the state demonstration recharge program but would still be used by CAWCD for storage of excess water in underground storage and recovery projects. The statute also allowed the CAWCD board to have the flexibility to use the tax revenue to pay for capital repayment or for operation and maintenance expenses, if necessary. The continuation of the tax reflected a legislative policy directive that it was important to continue to import excess CAP water when it is available and store it for future use.

In 1996 §48-3715.02 was amended again. H.B. 2494 created the Arizona Water Banking Authority. The Authority's mission is to store excess CAP water in Arizona's aquifers for future recovery and use. The Legislature viewed the four cent property tax as a primary funding mechanism for the Authority. The 1996 amendments extended the tax authority from 2001 until 2017. The CAWCD board is still responsible to levy the tax each year and to make a determination if the tax revenue should be retained for capital repayment or operation and maintenance expense. If the board determines the revenue is not needed for those purposes, the revenues would be deposited in the Arizona Water Banking Fund.

Discussion

The Arizona Water Banking Authority staff estimates that the revenues from the four cent property tax will account for over fifty percent of its funding and should total nearly seven million dollars per year. Clearly, if the tax were not levied by the CAWCD board or the board determines that the revenues were needed for CAWCD purposes, the water banking program would have to be scaled back significantly. The subcommittee discussed these risks, but concludes that the current method of levying the tax and transferring the funds to the Banking Fund is appropriate

Draft
February 4, 1998

and does not need modification.

The decision on whether or not to levy the tax and how much of the four cents should be levied rests entirely with the board of directors of the CAWCD. Some may question the desire of an elected board to levy a tax assessment that the CAWCD must then transfer to another government entity. Normally this approach could be perceived to be risky because the CAWCD board may not be motivated to assess taxes where the District is directly responsible for the oversight of the expenditures. However, the subcommittee does not believe that the risk is high in this case because the statute limits the expenditure of the four cent tax to purchasing water for storage to protect CAP M&I subcontractors against future shortages or emergency outages. Since the funds can only be spent in this manner, the money will come back to CAWCD in the form of payment for water purchase. Furthermore, the president of the CAWCD board of directors is a member of the Water Banking Authority board and therefore has a vote on how the tax revenue will be spent.

If the CAWCD decides to retain the four cent revenue for payment of expenses, funding for water banking activities would be severely curtailed. The subcommittee does not believe that it is likely that CAWCD will vote to keep the revenue, but if it does, it will probably be used to avoid a rapid rate increase to CAP water users. If, for unforeseen circumstances, expenses greatly exceed revenues, rates would need to be suddenly increased. This "rate shock" effect will be difficult for customers to respond to quickly, and could result in a corresponding decrease in water orders as water users choose to use other, less expensive, water sources, such as groundwater. If this type of circumstance were to arise, the subcommittee feels that it would be more appropriate to use the four cent tax revenue to cushion the rate shock and allow continuation of direct use orders rather than to use the revenue for water banking purposes.

Recommendation

The Finance and Tax subcommittee has reviewed the provisions of §48-3715.02 as was requested by the legislature. The subcommittee finds that the current mechanism which requires

Draft

February 4, 1998

the tax to be levied by the CAWCD but revenues spent by the Water Banking Authority has worked well to date. While there is some risk that the Water Banking Authority program could be disrupted if the CAWCD would choose not to levy the tax, the subcommittee finds that risk is small. The subcommittee also believes that an appropriate tradeoff will be made if the CAWCD votes to retain the tax revenue, since the funds would be used to enhance direct delivery of CAP water, which should have a priority over water banking activities. The subcommittee recommends that the current provisions of §48-3715.02 be continued without modification.

**Arizona Water Banking Study Commission
Subcommittee Membership / Upcoming Meetings**

Benefits Outside CAP Service Area Issues

Wednesday, March 18, 1998
1:00 pm to 3:00 pm
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

Wednesday, April 15, 1998
1:00 pm to 3:00 pm
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

Indian Issues

Wednesday, February 25, 1998
1:00 pm to 3:00 pm
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

Wednesday, March 25, 1998
1:00 pm to 3:00 pm
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

Wednesday, April 22, 1998
1:00 pm to 3:00 pm
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

Interstate and Intrastate Marketing Issues

Wednesday, February 25, 1998
10:00 am to 12:00 pm
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

MARCH - To be determined

APRIL - To be determined

Financing and Tax Issues Subcommittee (Previously Planning & Modeling Subcommittee)

Wednesday, February 4, 1998
9:00 am to 11:00 am
Phoenix Office of ADWR
500 North 3rd Street, Phoenix
Conference Room A

MARCH - To be determined

APRIL - To be determined

**Arizona Water Banking Study Commission
Subcommittee Membership**

BENEFITS OUTSIDE CAP SERVICE AREA ISSUES

Tom Griffin
Larry Dozier
Gary Hansen
Don Pope
Cindy Chandley
Bill Chase
Karen Barfoot

INTERSTATE AND INTRASTATE MARKETING ISSUES

Mark Myers
Larry Dozier
John Sullivan
Paul Orme
Gary Hansen
Don Pope
Cindy Chandley
Bill Chase
Karen Barfoot
Larry Robertson
Dennis Rule
Harold Thomas

INDIAN ISSUES

John Sullivan
Gary Hansen
Cindy Chandley
Karen Barfoot
Larry Robertson
Harold Thomas
Mary Ann Antone

FINANCING AND TAX ISSUES

Mark Myers
Larry Dozier
John Sullivan
Don Pope
Bill Chase
Karen Barfoot
Dennis Rule
Harold Thomas
Rita Pearson
Mary Ann Antone

December 17, 1997
DRAFT

Colorado River Board 4.4 Plan California's Use of Its Colorado River Allocation

Preamble

The Colorado River Board of California (CRB) agencies recognize and agree that the components of this Plan are an inseparable package and none of the components can be implemented until the final agreement is approved by all of the agencies and the Secretary of the Interior. All of the agencies agree to cooperate fully with each other, and with other agencies or governments as necessary, to secure the prompt and effective implementation of all aspects of this Plan, and to achieve as far as practicable the acceptance and implementation of the Plan within the Colorado River Basin.

Purpose

Establish the State's plan for California living within its apportionment of Colorado River water during two phases of implementation. The Plan:

- o Develops a conceptual water budget
- o Identifies necessary conservation/transfer programs
- o Identifies potential additional sources of water
- o Outlines an implementation schedule for the various programs
- o Describes administration and accounting procedures
- o Identifies related issues and programs

Background Statement

- o California's current consumptive use of Colorado River water is approximately 5.2 million acre-feet (MAF) per year, while its mainstream basic apportionment is 4.4 MAF per year, plus one-half of any available surplus water.
- o Within California's 4.4 MAF basic apportionment, the agricultural agencies have the first three priorities, not to exceed a total of 3.85 MAF, and the Metropolitan Water District of Southern California (MWD) has the fourth priority of 550,000 acre-feet. Above California's basic apportionment, MWD has the fifth priority of 662,000 acre-feet, the agricultural agencies have the sixth priority of 300,000 acre-feet, and several of the California agencies have contracts to divert surplus water, when it is available.
- o Indian Tribes and Miscellaneous Present Perfected Right holders within California, which are not identified in California's Seven-Party Agreement, have the right to divert up to approximately 85,000 acre-feet per year, which equates to about 50,000 acre-feet of consumptive use within California's 4.4 MAF basic apportionment. These users are presently consuming approximately 32,000 acre-feet a year (assuming about 25,000 acre-feet of unmeasured return flow).
- o Arizona and Nevada are approaching full use of their mainstream basic apportionments of 2.8 MAF and 300,000 acre-feet, respectively. Thus,

California's long-standing use of Arizona and Nevada's apportioned, but unused apportionments, as authorized by the Secretary of the Interior, is nearing an end.

- o The major objective for California is developing various programs, including transferring water from the agricultural users to the urban users, such that MWD's Colorado River Aqueduct can run at essentially full capacity without causing detrimental impacts in the agricultural service areas and to the other Colorado River Basin states.
- o The total water use within the Colorado River Basin is currently estimated to be 1 to 2 MAF below long-term average supplies. Given the large amount of reservoir storage in the Basin and recognizing that periods of below normal supplies must be anticipated, there is likely to be some amount of surplus supplies over the next several decades. For purposes of this Plan, it is assumed that, based on current reservoir operating criteria and the Upper Basin's schedule for development, there is approximately a 50 percent probability of hydrologic surpluses in the decade prior to 2010; approximately 40 percent probability of such surpluses in the decade prior to 2020; and approximately 30 percent probability of such surpluses in the decade prior to 2030.

Legal Issues

There have been long-standing disagreements among the agencies within California on certain issues. Some of these issues need to be resolved by further negotiation, administrative action, litigation or legislation. Recognizing the mutual benefits of proceeding with implementation of the Plan, the agencies hope definitive resolution of these legal issues will be resolved by agreement or deferred, making resolution by other methods unnecessary. These issues include, without limitation, the following: legality of transfers; reasonable and beneficial use; wheeling arrangements; banking in Lake Mead; subordination/priorities; administration of Present Perfected Rights not included in California's Seven Party Agreement; forfeiture/abandonment based on historical average use. Approval of this Plan by any party is not intended and shall not be construed as a waiver of its position on any deferred legal issue.

Phases of 4.4 Plan

The Plan will be implemented in two phases. During the first phase, which is between now and the year (2010 or 2015), programs will be implemented to reduce California's annual use of Colorado River water from about 5.2 MAF to approximately 4.6 to 4.7 MAF per year through firm and non-firm transfers. Also during the first phase, programs will be identified and staged for implementation during the second phase. The second phase will commence in the year (2011 or 2016). During the second phase, programs will be implemented to allow California to meet its Colorado River water needs

from within its annual apportionment of Colorado River water, which is 4.4 MAF when neither surplus water nor apportioned but unused water are available for apportionment among the states.

Components of 4.4 Plan

First Phase

During the first phase the objective of the Plan is to continue to meet southern California's water supply needs and to keep the Colorado River Aqueduct full while programs are implemented to reduce California's demand for Colorado River water through firm water transfers, non-firm water transfers, enhanced water supply programs, and reservoir operations. Also during the first phase, additional programs will be identified, investigated, and be ready for implementation during the second phase to allow California to continue to meet its Colorado River water supply needs and to keep the Colorado River Aqueduct full from within its annual apportionment, which would be 4.4 MAF in those years that conditions on the River so dictate.

Identified in the first phase of the Plan are firm water transfers, which include core transfers and recovery of seepage from the All-American and Coachella canals that provide for about 400,000 acre-feet of water being transferred from the agricultural areas to the coastal plain of southern California. In years that withdrawal of surplus water from reservoir storage begins to place undue risk on the other water users within the Colorado River Basin, California will implement non-

firm water transfers, such as land fallowing in Palo Verde Irrigation District (PVID), and call upon stored water made available through enhanced water supply programs to supplement the firm water transfers to meet M&I demands and assist in keeping the Colorado River Aqueduct full.

The Plan recognizes the need for California to enhance its water supply through conjunctive water use programs. Opportunities to conjunctively use ground and surface water will be explored using the Arizona Water Bank, the Coachella groundwater basin, as well as other groundwater basins near the Colorado River Aqueduct.

Furthermore, the Plan recognizes the request of the Secretary of the Interior to annually provide 16,000 acre-feet of water as part of the San Luis Rey Indian Water Rights Settlement in northern San Diego County. An option to obtain the needed water for this settlement is through the All-American Canal seepage recovery program.

Several programs to administer the use of water and water entitlements must also be implemented by California and the Secretary of the Interior during the first phase. Such programs deal with accounting for transfer agreements, administration of agricultural entitlements, overrun accounting, and credit for unmeasured return-flows.

Also during the first phase, in consideration for implementing California's Plan to reduce its use of Colorado River water, the Secretary of the Interior would agree to reservoir operating criteria that make surplus water available, except under

severely dry hydrologic conditions, to keep the Colorado River Aqueduct full. The description of how the operation of the Colorado River reservoirs is proposed to be implemented is discussed later in this document, under the section titled "Reservoir Operations."

A Conceptual Water Budget for Phase 1 of the Plan is contained in Attachment 1.

Firm Transfers

- o **Core Conservation Programs** – The Plan includes conservation/transfer agreements between the agricultural and urban agencies. The transfer agreement between Imperial Irrigation District (IID) and San Diego County Water Authority (SDCWA) will require, and this Plan is predicated on the assumption, that a satisfactory wheeling arrangement between MWD and SDCWA will be completed. These core transfers include:
 - IID/MWD 1988 Agreement (106,000 acre-feet/year)
 - IID/SDCWA Agreement (200,000 acre-feet/year)

The water conservation measures associated with the IID/MWD 1988 Agreement will be fully implemented by 1998 and will annually conserve 106,110 acre-feet of water per year.

The IID/SDCWA proposed conservation program will take about 18 months to two years to complete the environmental documentation required by the California Environmental Quality Act and National Environmental

Policy Act. An Agreement between the two agencies was released for public review on December 11, 1997. When this Agreement becomes effective, it is assumed that conservation measures would be implemented to make 20,000 acre-feet of conserved water available the first year and that measures would be implemented in each subsequent year to annually conserve an additional 20,000 acre-feet. Thus, once implementation begins, there would be a 10-year build-up to achieve the objective of conserving 200,000 acre-feet of water per year.

- o Seepage Recovery - All-American & Coachella Canals – The Plan includes measures to prevent seepage from the two canals, 68,000 acre-feet/year and 26,000 acre-feet/year, respectively. The “Final Environmental Impact Statement/Final Environmental Impact Report for the All-American Canal Lining Project” was completed in March 1994. In its Record of Decision issued on July 29, 1994, the Bureau of Reclamation decided to construct a concrete lined canal, parallel to 23 miles of the All-American Canal from the vicinity of Pilot Knob to Drop 3. The water savings from this project, estimated to be 68,000 acre-feet per year, were based upon the Bureau of Reclamation’s conclusions contained in its March 1987 “All-American Canal Relocation Study: Hydrologic Appendix” and its March 1994 “Final Environmental Impact Statement/Final Environmental Impact Report for the All-American Canal Lining Project: Geohydrology Appendix.” The environmental documentation for this project has been completed in

accordance with state and federal law, and implementation is estimated to consist of 1.5 to two years of design and other preconstruction activities followed by 3.5 to four years of construction.

The Coachella Canal Lining Project was documented in the Bureau of Reclamation's December 1993 "Draft Environmental Impact Statement/Environmental Impact Report for the Coachella Canal Lining Project" (EIS/EIR). The water savings of this project, estimated at 26,000 acre-feet per year, are based upon the 1982-1990 observed conveyance loss in the earthen reach of the Coachella Canal (Siphon 7 to Siphon 32). As over three years have passed since issuance of the Draft EIS/EIR, Reclamation has indicated that should the project be pursued, a revised Draft EIS/EIR would have to be issued. Therefore, implementation is estimated to consist of 1 year for environmental documentation, followed by 4 years of design and construction.

The proposed schedule for implementation of the firm transfers to be implemented during Phase 1 of the Plan is discussed later in this document.

Non-firm Transfers

- o **Non-firm Transfer Agreements** – The Plan includes prearranged measures to periodically move water from agricultural areas to the coastal plain to help fill the Colorado River Aqueduct (e.g., land following in PVID by MWD).

Enhanced Water Supply Programs

- o **California Agencies' Use of Arizona's Water Bank** – The Plan includes interstate cooperative programs. The CRB will work with Arizona, Nevada, and the California agencies to pursue storage opportunities in the Arizona Water Bank.
- o **Conjunctive Use of Groundwater within California** – During the transition period to full Colorado River Basin development, it is particularly important that available surplus water be stored in groundwater basins to the extent practicable. To accomplish this water management objective a number of potential programs are being explored.

The Plan includes measures to expand existing programs to store and recover Colorado River water in the Coachella groundwater basin. This includes direct recharge in the upper Whitewater River Basin and in-lieu and direct recharge in the lower Whitewater River Basin. The Coachella Valley Water District (CVWD) and MWD are currently developing a study program to investigate the cost and feasibility of such programs.

Within the lower Coachella Valley, CVWD, in partnership with MWD, is proposing to implement a direct and in-lieu recharge program to store water for MWD's use during periods when water is needed. Recharge water -- together with water resulting from additional local water conservation activities to reduce demand -- will be delivered through the Coachella Canal to the direct and in-lieu recharge facilities and stored underground.

Recovery of stored water will be accomplished by a combination of shifting local farmers from using Colorado River water to using groundwater and a system of recovery wells pumping directly into the canal or distribution system. During recovery, the substitution of local groundwater for Colorado River water will reduce CVWD's demand on the Colorado River and allow direct deliveries of an agreed upon amount of water to MWD at its Colorado River diversion near Parker Dam.

A pilot demonstration recharge facility has been constructed on the west side of the lower Coachella Valley and recharge water has been recovered. CVWD is in the process of obtaining environmental and other clearances to expand the pilot recharge facility to increase the amount of recharge.

In addition, CVWD is in the process of organizing a groundwater replenishment district to address current overdraft conditions. It will have authority to:

- Identify areas of benefit;
- Levy replenishment assessments; and
- Require well production reports from pumpers.

Conjunctive use of ground and surface water in other basins near the Colorado River Aqueduct will also be explored. One such potential area for conjunctive use of ground and surface water is the Cadiz/Fenner Basin. The Cadiz Land Company Inc. has proposed to MWD that water from the

Colorado River Aqueduct be delivered to the Cadiz/Fenner project area, about 37 miles north of the Colorado River Aqueduct in eastern San Bernardino County, during periods of excess water supplies. The imported water would be stored in the aquifers underlying Cadiz's landholdings and would be extracted during periods of deficit supplies. It would involve the construction of groundwater spreading and recovery facilities, a pumping plant, electrical power facilities, and a pipeline that would convey the water to the project site from the Colorado River Aqueduct in the vicinity of MWD's Iron Mountain Pumping Plant.

San Luis Rey Indian Water Rights Settlement

- o The Plan recognizes the stated request of the Secretary of the Interior to provide a 16,000 acre-foot per year water supply as part of the San Luis Rey Indian Water Rights Settlement in northern San Diego County. The water for this settlement may come from the seepage recovery from the All-American Canal.

Administrative Programs

- o Accounting for Transfer Agreements -- The Plan proposes an accounting procedure that assures conserved water moves to the transferee and is so reflected in Reclamation's records, with a corresponding reduction in the transferor's net diversions.

- o Administration of Agricultural Entitlements – The Plan proposes to the Secretary of the Interior the following measures for establishing and administering water entitlements within California's first three priorities.
 - General Concept:
 - All water use is limited to reasonable beneficial use.
 - Each district has a limited defined service area eligible to receive Colorado River water unless surplus water is available.
 - Water use within priorities 1 and 2 will be assumed to be the average use of the preceding ten years within the respective districts.
 - Priority 3 will be administered to ensure that the 3.85 MAF limit on the first three priorities is maintained.
 - All transfers will be administered to reflect a corresponding reduction in the net diversions of water available out of the 3.85 MAF limit of the agricultural agencies.
 - Water transferred through eligible land following programs within priorities 1 and 2 will be limited to a specific unit consumptive use per acre.
 - Any unused water from within the first three priorities will be available for use by the 4th and 5th priorities.

- **Priority 1 -- PVID**
 - Acreage on the Palo Verde Valley lands not to exceed 104,500 acres.
 - Water transferred through an eligible land following program is limited to ____ acre-feet/acre of consumptive use per annum.
- **Priority 2 -- Yuma Project Reservation Division**
 - Irrigated acreage of the Project lands not to exceed _____ acres.
 - Water transferred through an eligible land following program is limited to ____ acre-feet/acre of consumptive use per annum.
 - The service area is limited to the findings of a Commission appointed by the Secretary.
- **Priority 3 -- IID, CVWD and PVID's lower mesa lands**
 - The third priority is shared among IID, CVWD and lands on the lower Palo Verde Mesa.
 - The maximum eligible acreage to receive water within the third priority for IID is _____ acres.
 - The maximum eligible acreage to receive water within the third priority for CVWD is _____ acres.
 - The maximum eligible acreage to receive water within the third priority for PVID's lower mesa lands is _____ acres.

- Repayment for exceeding the 3.85 MAF limit (as reduced to reflect any transfers) occurs as follows:
 - First, any water used on lands that exceed the maximum eligible acreage within the third priority.
 - Second, total overuse in the third priority will be repaid in succeeding year(s) and allotted among the agencies as follows: (this key issue is being worked on).
 - The third priority agencies will develop means of administering their respective repayment obligations .
- o Overrun Accounting – The Plan proposes a process for reconciling actual use with allotted use on an annual basis, with Lake Mead storage being used temporarily. An annual overrun by any entitlement holder will be repaid by “wet water” reductions approved and scheduled by the Secretary of the Interior over the following _____ year(s). The maximum allowable accrual of an overrun is limited to _____ percent of the entity’s entitlement. Repayment will not be required if flood control or level 1 releases occur from Lake Mead during the repayment period.
- o Credit for Unmeasured Return-flows – The Plan assumes that the Secretary of the Interior will give credit for all unmeasured return flows.
- o Reasonable and Beneficial Use – The California agencies will cooperate with the Bureau of Reclamation and the California Department of Water

Resources in their activities to evaluate water use practices with respect to reasonable and beneficial use. As one facet of this accord, the California agencies will defer to the judgement of the State and federal agencies with respect to reasonable and beneficial use by other agencies and will not challenge the use by the other agencies.

Reservoir Operations

- o Operation of Lake Mead -- The Plan recognizes that even with full development in the Upper Basin, there will be surplus flows from time-to-time due to favorable runoff conditions and that a portion of these flows can be used in the urban and agricultural areas in conjunction with firm supplies. The plan also recognizes the need to address periods of low runoff. The CRB will work with the California agencies, the other Colorado River Basin states, and the Secretary of the Interior to develop and implement Lake Mead operating criteria that make optimum use of the runoff and available storage without exposing the other Basin states to unreasonable risks.

The Plan proposes a reservoir operating strategy that is coupled with firm and non-firm water transfers, enhanced water supply programs, and administrative programs. The resulting reservoir operating strategy for Lake Mead is based upon: 1) the avoidance of future hydrologic spills; 2) the high probability that, with firm and non-firm water transfers being implemented by

California, the Colorado River Aqueduct can be kept full from within California's basic entitlement and its use of surplus water; and 3) implementation of the proposed three levels of release from Lake Mead, which would defer the need for Metropolitan to seek to bank conserved water in the mainstream reservoirs during the Phase I period. As such, the Plan proposes three levels for which surplus water would be made available for use by Colorado River mainstream users in the United States. All three levels provide surplus water deliveries to Colorado River mainstream users in the United States. A detailed description of the reservoir operations for Lake Mead is contained in Attachment 2.

Impacts to be Addressed

- o **Salton Sea Transfer Impacts** – The Salton Sea exists as the result of agricultural drainage from the Imperial, Coachella, and Mexicali Valleys. While this drainage is the source of water that keeps the sea from drying up, it contains salts which, when combined with evaporation, continue to increase the salinity of the sea. The CRB and the California agencies will work with the Salton Sea Authority, the State of California, the federal government, and others in considering impacts on the Salton Sea caused by reduced flows associated with agricultural conservation and in considering

any proposed ecosystem restoration plans.

- o Colorado River Impacts -- The CRB and the California agencies will work with the Lower Colorado River Multi-Species Conservation Program Steering Committee in addressing environmental and related impacts of the Plan on the lower Colorado River.

Second Phase

During the second phase, the programs implemented during the first phase, except any interim reservoir operating criteria, will continue to be in full force. In addition, those firm and non-firm water transfer programs that were identified, investigated, and selected during the first phase to allow California's use of Colorado River water to move closer to its "basic" annual apportionment of 4.4 MAF will be implemented.

Firm Transfers

- o Desalination of Drainage Water -- Recognizing the serious water quality concerns about the use of Colorado River water in the urban area, the second phase of the Plan may include a component addressing the desalination and reuse of drainage water entering the Salton Sea, if determined to be feasible.

- o Future IID conservation/transfer – Opportunities to conserve and transfer an additional 50,000 to 100,000 acre-feet/year to the coastal plain would be implemented, if determined to be feasible.

Non-Firm Transfers

- o Additional Non-firm Transfers – Additional non-firm transfers will be studied and implemented as needed to continue to meet the Colorado River water needs of the coastal plain of southern California.

Reservoir Operations

- o California will work with the Department of the Interior and the Colorado River Basin states during Phase 1 to develop reservoir operating strategies that will be operative during the second Phase.

Schedule

The implementation schedule for the various elements of the Plan is being developed. The implementation schedule for the firm transfers to be implemented during Phase 1 is contained in Attachment 3.

**CONCEPTUAL WATER BUDGET FOR THE FIRST PHASE OF CALIFORNIA 4.4 PLAN
(Approximate Figures)**

<u>Water Use by California Agencies^a</u>	<u>1997 Acre-Feet/year</u>	<u>Phase 1 Completion Acre-Feet/Year</u>
Agricultural Agencies		
Basic Entitlement	3,850,000	3,850,000
Firm Transfers	<u>-106,000</u>	<u>- 400,000</u>
Subtotal	3,744,000 ^b	3,450,000 ^b
Metropolitan Water District		
Basic Entitlement	550,000	550,000
Firm Transfers	106,000 ^c	400,000 ^d
Non-Firm Transfers	0	up to 100,000
Surplus Water (when available)	<u>594,000</u>	<u>200,000 to 300,000</u>
Subtotal	1,250,000	1,250,000
Miscellaneous PPRs and Indian and Federal Rights	32,000	50,000
Subtotal	32,000	50,000
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TOTAL	5,026,000	4,650,000 to 4,750,000^a
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<u>Sources of Additional Water</u>		
Surplus Water (when available)	274,000	25,000+
Enhanced Water Supply Programs	0	25,000+
Return Flow Credits	<u>-100,000</u>	<u>0^e</u>
Subtotal	174,000	50,000+
<hr style="border-top: 1px dashed black;"/>		
TOTAL Demand	5,200,000	TOTAL Demand -- less than 4,600,000 to 4,700,000

^a CVWD's current estimated ground water overdraft is about 170,000 acre-feet/year; the Plan will offset this through various agreements and programs.

^b Does not include priority 6 surplus water when available for use by the agricultural agencies.

^c Includes the 1988 MWD/IID Conservation Agreement.

^d Includes the 1988 MWD/IID Conservation Agreement, SDCWA/IID proposed conservation program, seepage recovery along the All-American and Coachella Canals.

^e Included in the above Phase 1 consumptive use values

ATTACHMENT 2

PROPOSED LAKE MEAD RESERVOIR OPERATIONS Phase 1 Criteria

Introduction

Water is annually released from Lake Mead in accordance with: 1) Article II of the 1964 U.S. Supreme Court Decree in Arizona v. California; 2) the 1970 Criteria for the Coordinated Long-Range Operation of the Colorado River Reservoirs promulgated pursuant to the 1968 Colorado River Basin Project Act; 3) the 1984 Field Agreement between the Army Corps of Engineers and the Bureau of Reclamation for flood control operation of Hoover Dam and Lake Mead, based upon the Army's 1978 flood control regulations (33 CFR Part 208,11); 4) the 1944 Mexican Water Treaty; and 5) water service contracts between Colorado River mainstream water users and the Secretary in accordance with the Boulder Canyon Project Act. Such releases from Lake Mead, except for flood control purposes, are to meet the downstream water delivery requirements under a surplus, normal, or shortage condition annually determined by the Secretary. The surplus, normal, and shortage condition being that more than 7.5 MAF of water, 7.5 MAF of water, or less than 7.5 MAF of water is available for apportionment among the Lower Division states, respectively.

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In recent years, the Secretary has carried out his determination of the quantity of water available for apportionment among the Lower Division states on a year-to-year basis, generally, attempting to meet all beneficial Colorado River mainstream water demands within the United States as reasonably required. Present circumstances have now changed and it is important, as a component of California's Plan, to have a set of criteria which govern the operation of Lake Mead during the Phase I implementation period. The proposed release levels set forth below specifically address the surplus criteria that would be utilized by the Secretary during this period. The Secretary's compliance with other aspects of Lake Mead's operations would remain unaffected. California will work with the Secretary and the other Basin states as these other operational matters are addressed.

A description of the proposed surplus operating criteria for the operation of Lake Mead during Phase I follows.

Proposed Lake Mead Operation - Phase I Criteria

In consideration of California's implementation of its 4.4 Plan, including the firm and non-firm transfers from the agricultural areas to the coastal plain of Southern California via the Colorado River Aqueduct pursuant to the implementation schedule identified in the Plan, the operating criteria for the Colorado River reservoirs for the Phase 1 period would provide for the following three levels of surplus water releases:

Level 1 Surplus Release - A level 1 release is based upon a multiple-year spill avoidance criterion. California proposes that the level 1 release be based upon a 5-year look-ahead spill avoidance criterion. Thereby, a portion of the volume of water that would be expected to be released for flood control purposes during the succeeding five years would be made available for apportionment among the Lower Division states.

For the level 1 surplus release, the demand for water within the Lower Basin does not govern the volume of water to be made available; rather the volume of water expected to be released for flood control purposes over the defined period of years would dictate the volume of the release. This is characterized as a limited spill avoidance strategy, when, in some years, the quantity of water made available would not necessarily be sufficient to satisfy all of the water demands of the water users within the United States. Under a level 1 release any apportioned, but unused water in one or two of the states, would be made available to the other states.

Level 2 Surplus Release - A level 2 surplus release would be associated with the quantity of water that is needed to keep the Colorado River Aqueduct full. No level 2 water would be made available for off-stream storage or agricultural uses that are

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above the agricultural entities "basic" entitlements, which would reflect a corresponding reduction in the net diversion of water available out of the 3.85 MAF limit by the amount of firm transfers.

Level 3 Surplus Release - A level 3 release would be based upon a specific set of criteria which would reflect that reservoir levels have been drawn down further than expected, but not to the extent of justifying a normal or shortage condition. A level 3 release would be associated with the quantity of water needed to keep the Colorado River Aqueduct full. No level 3 water would be made available for off-stream storage or agricultural uses that are above the agricultural entities' "basic" entitlements, which would reflect a corresponding reduction in the net diversion of water available out of the 3.85 MAF limit by the amount of firm and non-firm transfers. Stored water from enhanced water supply programs could be used during level 3 releases.

The above proposed reservoir operating criteria for surplus releases would be applicable during Phase I of California's 4.4 Plan.

ATTACHMENT 3

