

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, MAY 20, 1998

PLEASE PRINT

ARIZONA DEPARTMENT OF WATER RESOURCES

1	NAME: DON POPE REPRESENTING: YUMA CO. WATER USERS ASSOC.	BUSINESS ADDRESS: PO BOX 5775 YUMA AZ 85366-5775	ARE YOU ALREADY ON OUR MAILING LIST? YES	TEL: 520-627-8824 FAX: 520-627-3065 E-MAIL: DONPOPE@CYBERTRAILS.COM
2	NAME: DAVID IWANSKI REPRESENTING: AGRIBUSINESS COUNCIL OF AZ	BUSINESS ADDRESS: 2406 S. 24TH ST., E-103 PHOENIX AZ 85034	YES	TEL: 231-9224 FAX: 244-2431 E-MAIL: DIWANSKI@AABCAZ.ORG
3	NAME: G.L. EDWARDS REPRESENTING: COLORADO RIVER COMMISSION - NV	BUSINESS ADDRESS: 555 E. WASHINGTON AVE. LAS VEGAS NV 89101	YES	TEL: 702-486-2690 FAX: 702-486-2697 E-MAIL: GEDWARDS@INTERMIND.NET
4	NAME: DALE ENSMINGER REPRESENTING: BUREAU OF RECLAMATION	BUSINESS ADDRESS: PO BOX 614-70 BOULDER CITY NV 89005-1470	YES	TEL: 702-293-8659 FAX: 702-293-8042 E-MAIL:
5	NAME: JEFF JOHNSON REPRESENTING: SNWA	BUSINESS ADDRESS: 1001 S VALLEY VIEW BLVD LAS VEGAS NV 89153	YES	TEL: 702-258-3948 FAX: 702-258-3951 E-MAIL: JEFFJOHNSON@LVWD.COM
6	NAME: HARRY RUZGERIAN REPRESENTING: MWD - SO. CALIF.	BUSINESS ADDRESS: 350 S. GRAND AVE. LOS ANGELES CA 90071	YES	TEL: 213-217-6082 FAX: 213-217-6949 E-MAIL:
7	NAME: FRANK SAVINO & ROBERT S. WARD REPRESENTING: TOWN OF PARKER	BUSINESS ADDRESS: PO BOX 69-609 PARKER AZ 85344	YES	TEL: 520-689-9265 FAX: 520-669-5247 E-MAIL:

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ARIZONA DEPARTMENT OF WATER RESOURCES

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8	NAME: BOB BARRETT REPRESENTING: CAP	BUSINESS ADDRESS: CAWCD PO BOX 43020 PHOENIX AZ 85080-3020	ARE YOU ALREADY ON OUR MAILING LIST?	TEL: 869-2135 FAX: 869-2735 E-MAIL: RBARRETT@CAP-AZ.COM
9	NAME: WILLIAM VAN ALLEN REPRESENTING: NEW MAGMA IRRIGATION & DRAINAGE DIST. (NMIDD)	BUSINESS ADDRESS: NEW MAGMA I&DD 34630 NORTH SCHNEPF ROAD QUEEN CREEK AZ 85242	YES	TEL: 987-3461 FAX: 987-0660 E-MAIL:
10	NAME: ALAN FORREST REPRESENTING: COMMUNITY WATER CO. OF GREEN VALLEY	BUSINESS ADDRESS: PO BOX 1078 GREEN VALLEY AZ 85622-1078	YES	TEL: 520-625-8409 FAX: 520-625-1951 E-MAIL:
11	NAME: BETH MILLER REPRESENTING: CITY OF MESA	BUSINESS ADDRESS: P O BOX 1466 MESA AZ 85211-1466	YES	TEL: 644-2947 FAX: 644-2768 E-MAIL: BETH-MILLER@CI.MESA.AZ.US
12	NAME: RICH SIEGEL REPRESENTING: SRP	BUSINESS ADDRESS P O BOX 52025 PHOENIX AZ 85072-2025	YES	TEL: 236-2277 FAX: 236-2159 E-MAIL: RSSIEGEL@SRP.GOV
13	NAME: WILLIAM BAKER REPRESENTING: NEW MAGMA HARQUAHALA	BUSINESS ADDRESS	YES	TEL: 956-8878 FAX: 224-9665 E-MAIL:
14	NAME: LINDA JAMES REPRESENTING: IRRIGATION AND ELECTRICAL DISTRICT ASSOCIATION (IEDA)	BUSINESS ADDRESS 340 EAST PALM LANE STE 140 PHOENIX AZ 85004	YES	TEL: 254-5908 FAX: 257-9542 E-MAIL:

ARIZONA WATER BANKING AUTHORITY

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ARIZONA DEPARTMENT OF WATER RESOURCES

15	NAME: FLOYD MARSH REPRESENTING: CITY OF SCOTTSDALE	BUSINESS ADDRESS 9388 E. SAN SALVADOR SCOTTSDALE AZ 85258	ARE YOU ALREADY ON OUR MAILING LIST? YES	TEL: 391-5683 FAX: 391-5615 E-MAIL:
16	NAME: CYNTHIA STEFANOVIC REPRESENTING: AS STATE LAND DEPT.	BUSINESS ADDRESS 1616 W ADAMS PHOENIX AZ 85007	YES	TEL: 542-3500 FAX: 542-4608 E-MAIL:
17	NAME: PAUL ORME REPRESENTING: MSIDD/CAIDD	BUSINESS ADDRESS HC 63 BOX 6042 MAYER AZ 86333	YES	TEL: 465-0445 FAX: 520-632-4344 E-MAIL:
18	NAME: VC DANOS REPRESENTING: AMWUA	BUSINESS ADDRESS 4041 N CENTRAL AVE STE 900 PHOENIX AZ 85012	YES	TEL: 248-8482 FAX: 248-8423 E-MAIL: VCD@AMWUA.ORG
19	NAME: BOB McCAIN REPRESENTING: AMWUA	BUSINESS ADDRESS 4041 N CENTRAL AVE STE 900 PHOENIX AZ 85012	YES	TEL: 248-8482 FAX: 248-8423 E-MAIL: JRM@AMWUA.ORG
20	NAME: DENNIS RULE REPRESENTING: TUCSON WATER	BUSINESS ADDRESS P O BOX 27210 TUCSON AZ 85726-7210	YES	TEL: 520-791-2666 FAX: 520-791-3293 E-MAIL:
21	NAME: SHARON B. MEGDAL REPRESENTING: PIMA COUNTY	BUSINESS ADDRESS 3540 E HAMPTON ST TUCSON AZ 85716	YES	TEL: 520-326-4789 FAX: 520-795-4898 E-MAIL:

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, MAY 20, 1998

ARIZONA DEPARTMENT OF WATER RESOURCES

PLEASE PRINT

22	NAME: ROCK CRAMER REPRESENTING: VICKSBURG FARMS	BUSINESS ADDRESS P O BOX V PARKER AZ 85344	ARE YOU ALREADY ON OUR MAILING LIST? YES	TEL: 520-669-2936 FAX: 520-669-2335 E-MAIL:
23	NAME: CHUCK CULLOM REPRESENTING: BOOKMAN-EDMONSTON ENGIN. INC.	BUSINESS ADDRESS BOOKMAN-EDMONSTON ENGIN INC 302 N FIRST AVE STE 810 PHOENIX AZ 85003	YES	TEL: 258-0234 FAX: 258-2538 E-MAIL:
24	NAME: GEORGE ARTHUR REPRESENTING: NAVAJO NATION	BUSINESS ADDRESS BOX 3390 WINDOW ROCK AZ	YES	TEL: 520-871-6381 FAX: 520-871-7255 E-MAIL:
25	NAME: REPRESENTING:	BUSINESS ADDRESS		TEL: FAX: E-MAIL:
26	NAME: REPRESENTING:	BUSINESS ADDRESS		TEL: FAX: E-MAIL:
27	NAME: REPRESENTING:	BUSINESS ADDRESS		TEL: FAX: E-MAIL:
28	NAME: REPRESENTING:	BUSINESS ADDRESS		TEL: FAX: E-MAIL:



Summary of May 20 AWBA Meeting¹

I. Welcome/Opening Remarks: In Chairperson Rita Pearson's absence, Vice-Chair Tom Griffin presided over the meeting.

II. Minutes: The Authority approved the minutes from the last Authority Meeting, which took place on March 18, 1998. There was no April Authority meeting.

III. Plan of Operation

Tim Henley, Manager of the Water Banking Authority, discussed operation of the Bank and monthly water deliveries for April.

- GRUSP: April deliveries were way down because GRUSP was shut down. May should be closer to the Bank's expectations, and the Bank will likely "catch up" to projections.
 - Rich Siegel of SRP explained that the Salt River-Pima Indian Community has some concerns about landfills in proximity to GRUSP, and this issue may impact the amount of water stored this year.
 - Omnibus Water Legislation: the bill has passed out of the Arizona Legislature. The bill includes provisions relating to water exchanges, which should further assist the Bank in getting back up to speed on water deliveries to GRUSP.
- Water Bank's Budget: next month, the Authority will consider and approve the budget for calendar year 1999.

IV. Annual Report

Kim Kunasek, Technical Administrator for the Water Banking Authority, provided a draft of the 1997 Annual Report and gave a brief overview of the sections contained therein. Arizona law requires the Bank to submit an annual report of the previous calendar year activities by July 1 each year.

¹Please note that these are not formal minutes but a summary of discussion and action of the meeting. Official minutes are prepared prior the next month's Authority meeting and are approved at that meeting.

V. CAP-USBR Settlement Negotiations

Grady Gammage, Jr., President of the Central Arizona Water Conservation District (CAWCD) and member of the Water Banking Authority, updated the Authority members on the settlement negotiation process. He described a letter from David Hayes of the Department of the Interior, which reiterated the federal government's position that it intends to make 240,000 acre feet of additional water available for Arizona Indian tribes. Tim Henley added comments on the Bank's role in the settlement negotiations, which would involve firming non-Indian agricultural water to create additional priority supplies for settlement purposes. This involvement could expand the role of the Bank because it implicates firming agricultural instead of municipal and industrial water, the Bank would likely not need additional statutory authorization to assist in the settlement of Indian water rights because the Bank's enabling legislation includes assisting in Indian water rights settlements as one of four reasons for creating the Bank.

Kim Kunasek discussed a recent pre-trial hearing for the CAP-USBR lawsuit. At the hearing, the U.S. Bureau of Reclamation (USBR) explained that it intends to amend its counterclaim to argue that the CAWCD should not operate the CAP and that the CAWCD is not legally permitted to sell its excess water to the Arizona Water Banking Authority. Judge Carroll informed the USBR that it must file a motion for leave to amend its counterclaim. The Judge also set a trial date for August 4, 1998.

VI. Recharge Activity

A direct recharge facility near Tucson recently went on line. The Pima Mine Road (PMR) project was dedicated on May 7, 1998. Rita Pearson, Grady Gammage, Jr., AWBA and ADWR staff, numerous elected officials, and members of the public attended the dedication. The facility has a demonstration permit to store 10,000 af of water, and the Bank is scheduled to store about 5000 af of water at PMR this year.

The Bank continues to negotiate the terms and format of a contract with the CAWCD for Bank water storage at the Avra Valley Recharge Project. Negotiations are near completion.

VII. Study Commission Activities

Herb Dishlip of the ADWR updated the Authority on the Study Commission's activities. He explained that the subcommittee work has been completed. He explained that the process has been very helpful in identifying issues and assisting in the CAP-USBR settlement negotiations. The Study Commission concludes in November, when a final report will be issued.

VIII. Interstate Activities

Herb Dishlip explained that California's 4.4 Plan is moving along slowly. He discussed the Imperial Irrigation District/San Diego Water Authority water transfer agreement and how that fits into the 4.4 Plan. Arizona officials met with California officials in April, but Arizona found California's level of preparation somewhat discouraging. Because 1999 will be another surplus year, some of the pressure that would otherwise be on California to quickly get in compliance is unfortunately lessened.

Tim Henley updated the Authority on the proposed federal rules and included a chart containing comments by topic covered in the proposed rules. Because so many parties submitted comments, many of the comments are directly contradictory. The handout also included about 25 comments on the programmatic EIS prepared by the federal government.

IX. Call to the Public

Alan Forrest of the Community Water Company of Green Valley discussed an ADWR-funded "Sahuarita-Green Valley Area Central Arizona Project Water Use Feasibility Analysis and Delivery System Optimization Study." The study is investigating the feasibility of bringing CAP water from the CAP aqueduct terminus to water users in the Green Valley-Sahuarita area. Forrest asked the Bank to consider the results of the study before developing any long term plans for incorporating groundwater savings projects into AWBA operations. The study will be complete in August.

Tim Henley suggested that the steering committee of this project make a formal presentation to Authority members at next month's meeting. He also explained that this would enable all parties to consider any effects on the Facility Plan.

Bob McCain raised concerns about the potential effect of certain portions of the Third Management Plan on recharge sites because the Plan is likely to change the siting criteria for recovery wells.

The meeting was adjourned at 11:00 a.m.

Arizona Water Banking Authority

500 North Third Street, Phoenix, Arizona 85004

Telephone 602-417-2418

Fax 602-417-2401

FINAL AGENDA

Wednesday, May 20, 1998

9:30 a.m.

Arizona Department of Water Resources

Third floor conference room

- I. Welcome / Opening Remarks
- II. Adoption of Minutes of March 18 Meeting
- III. Discussion of the 1998 Annual Plan of Operation and Staff Activities
- IV. Update of 1997 Water Banking Authority Annual Report
- V. Update of CAP/USBR Settlement Subcommittees
- VI. Discussion with CAWCD Regarding Recharge Agreements
- VII. Update on Study Commission Activities
- VIII. Update on Interstate Discussions
- IX. Call to the Public
- X. Adjournment

Future Meeting Dates:

Wednesday, June 17, 1998

Wednesday, July 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.D.). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes

March 18, 1998
Arizona Department of Water Resources



Welcome / Opening Remarks

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

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

Adoption of Minutes of February 18 Meeting

The February 18 meeting minutes were adopted as submitted.

Discussion of the 1998 Annual Plan of Operation and staff activities

Mr. Henley discussed water deliveries for the month of February. Approximately 10,000 af was recharged. Mr. Henley stated that he had anticipated another 15,000 af of water to be recharged in February but there was a significant drop in orders due to the heavy rainfall. For the month of March it is anticipated that 32,000 af will be recharged.

The CAWCD Board has decided to proceed with the lawsuit filed by the USBR over CAP repayment but currently will continue to work towards a negotiated settlement. The Water Banking staff (AWBA) has been involved in the discussions to try to help facilitate a settlement.

The AWBA is in the process of developing an agreement with the CAWCD for the Pima Mine Road Underground Storage Facility. The AWBA will also draft a new agreement with the CAWCD for the Avra Valley facility.

Presentation by Vidler Water Company on MBT Ranch

The Vidler Water Company (Vidler) has purchased a ranch in the Harquahala Valley area in La Paz County. Vidler intends to use the ranch to develop a recharge facility for a direct recharge project. Vidler has applied to the ADWR for a recharge permit. The permit is currently in the public comment phase.

If the AWBA is to participate in the project with Vidler the AWBA would need to go through the bidding process according to the Procurement Code. In order to amend the 1998 Plan of Operation to include this project, the AWBA must hold a public meeting in conjunction with La Paz County Board of Supervisors. The project will be permitted as a "pilot program" which Vidler Water Co. Anticipates will provide the data necessary to eventually operate as a full-blown project.

Greg Bushner of HydroSystems, Inc. gave an overview of Vidler's underground storage facility currently under construction. Mr. Bushner described the water storage techniques and the monitoring equipment. The cost of water storage at the Vidler facility is still being determined. Vidler Water Co. expects political subdivisions within and outside Arizona to store water at the facility.

AWBA approval of submission of comments to the Secretary of the Interior

Mr. Henley discussed the draft comments to the proposed rule governing interstate water banking. The AWBA and the ADWR comments on the proposed rule are almost complete and will be ready for submission by the deadline. There will be another USBR hearing on March 27 in Ontario, California, which Mr. Henley will attend. Herb Dishlip (ADWR), and Mike Pearce, Chief Counsel for the ADWR, will also attend the hearing.

Mr. Henley stated that there are still two main areas of concerns with respect to the proposed rule: the definition of “authorized entity” and the details of the Interstate Storage Agreement that will govern interstate banking.

Ms. Pearson added that conversation between USBR representatives and interested parties, such as the AWBA, about the proposed changes during the public comment period is not possible.

Gerry Edwards of the Southern Nevada Water Authority stated that Nevada endorses about 98% of what is currently in the AWBA and ADWR comments to the proposed rule.

The Authority moved for submission of the comments to the USBR and all members approved.

Update on Study Commission Activities

Herb Dishlip gave an overview of the Study Commission. The Study Commission subcommittees continue to be very active with the following meetings already held:

February 25, 1998:

- Interstate/Intrastate Water Banking and Marketing subcommittee: The issues on interstate regulations were discussed.
- Indian Issues subcommittee: The subcommittee discussed the opportunity to store water on Indian land. Mr. Dishlip stated that he will be attending a meeting on March 4 of the Southern Arizona River Water Rights Settlement group.

March 4, 1998:

- Finance and Taxation subcommittee: The subcommittee discussed the four-cent tax and in lieu tax requested to be levied for interstate banking.

March 18, 1998:

- Benefits Outside CAP Service Area subcommittee: The issues to be discussed are the role the AWBA for communities outside CAP area and the Grand Canyon Village proposal.

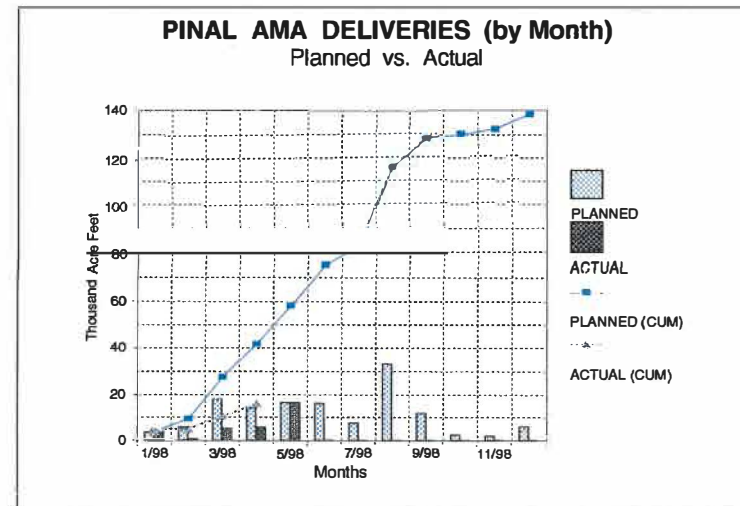
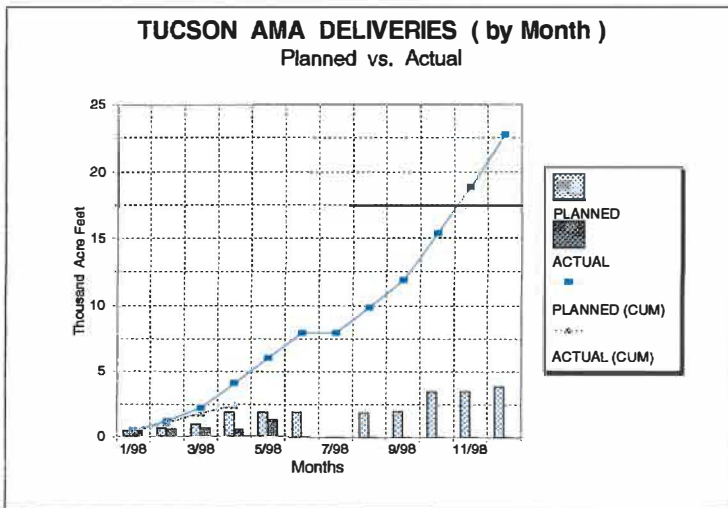
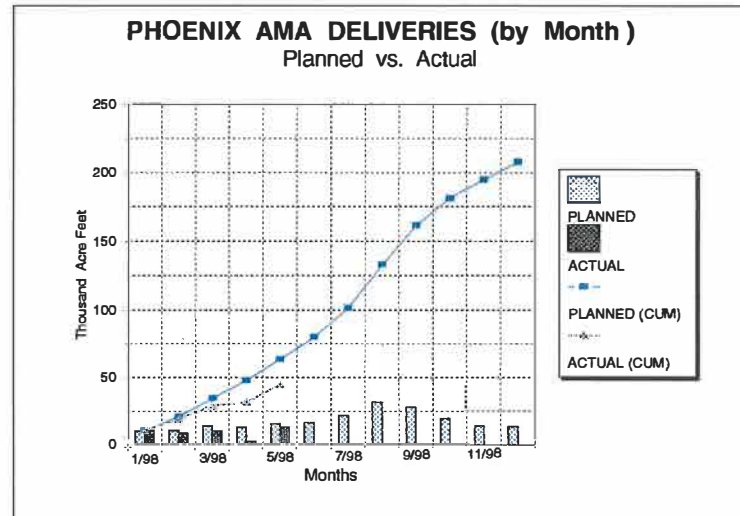
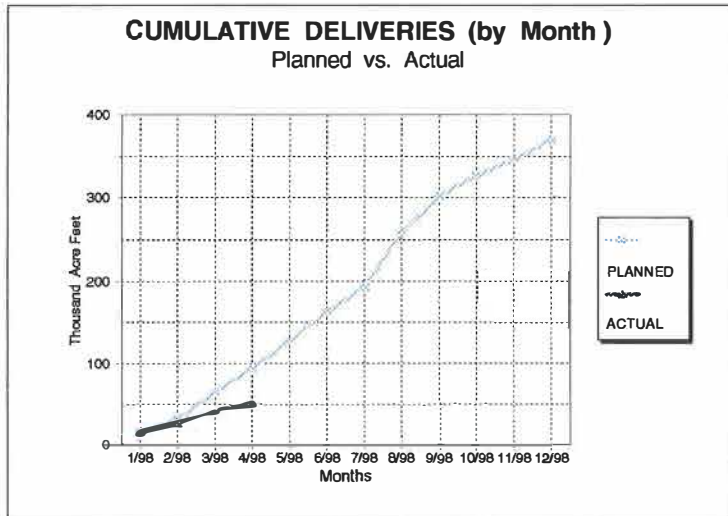
Interstate Discussions

Ms. Pearson updated the Authority on Interstate discussions. She commented that there have not been any recent seven Basin State meetings. Ms. Pearson briefly discussed the effort by the U.S. Congress to authorize restoration of the Salton Sea in southern California. At a hearing before a congressional committee in Washington, D.C., Chris Harris of the ADWR testified about the ADWR’s concerns over certain provisions of the proposed bill, especially California’s ability to accomplish restoration while staying within or close to its 4.4 million acre foot allotments of water.

Call to the Public

Chairman Pearson adjourned the meeting at 10:35 a.m.

1998 PLAN OF OPERATION



1998 PLAN OF OPERATION BY ENTITY

Actual deliveries updated 18-May-98

	jan	feb	mar	apr	may	total	
Phoenix AMA							
GRUSP	8,032	8,551	5,284	0	7,200	29,067	GRUSP
RWCD	0	0	0	0	0	0	RWCD
NMIDD	2,233	286	2,247	0	3,000	7,766	NMIDD
QCID	0	0	0	0	0	0	QCID
MWD	0	0	2,373	2,399	2,588	7,360	MWD
CHCID	0	0	0	0	50	50	CHCID
TID	0	0	0	0	0	0	
Subtotal	10,265	8,837	9,904	2,399	12,838	44,243	
Pinal AMA							
CAIDD	0	0	0	0	0	0	CAIDD
MSIDD	2,430	0	0	0	7,660	10,090	MSIDD
HIDD	1,819	708	5,284	5,905	8,900	<u>22,616</u>	HIDD
Subtotal	4,249	708	5,284	5,905	16,560	32,706	
Tucson AMA							
Avra Valley	0	0	0	0	850	850	Avra Valley
CAVSARP	531	579	576	597	420	2,703	CAVSARP
Pima Mine	0	0	100	0	0	100	Pima Mine
Lower Santa Cruz	0	0	0	0	0	0	L. Santa Cruz
Subtotal	531	579	676	597	1,270	3,653	
TOTAL	15,045	10,124	15,864	8,901	30,668	80,602	

Arizona Water Banking Authority

Annual Report 1997

Honorable Jane Dee Hull
Governor of Arizona

Members

Rita P. Pearson
Chairman

Tom Griffin
Vice-chairman

Bill Chase
Secretary

Grady Gammage, Jr.
Member

Richard S. Walden
Member

Ex officio
Senator Pat Connor
Representative Gail Griffin

Contents

Arizona Water Banking Authority
500 North Third Street, Phoenix, Arizona 85004
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May 19, 1998

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

EX OFFICIO MEMBERS
Senator Pat Conner
Representative Gail Griffin

The Honorable Jane Dee Hull
Governor of Arizona
1700 West Washington Street
Phoenix, Arizona 85007

Dear Governor Hull,

Enclosed is the second Annual Report describing the operation of the Arizona Water Banking Authority for calendar year 1997 which has been prepared in compliance with Arizona Revised Statutes section 45-2426 (Supp. 1997). The report includes the amount of water stored by the Authority, an accounting of all monies expended from the banking fund and remaining funds available to the Authority. The Report also provides background information on the Authority and an overview of significant achievements over the past year.

During calendar year 1997, the Authority staff was involved in extensive Study Commission meetings to discuss and prepare recommendations for future opportunities for the Authority, including assisting with Indian water rights settlements and inter/intrastate water banking and marketing. One of the most significant developments for the Bank in 1997 was the United States Bureau of Reclamation's publication of a proposed federal rule (modeled after Arizona's Water Bank) governing interstate water banking, which is the first step to enabling the Bank to recharge water in Arizona for Nevada and possibly California.

The Authority recharged approximately 330,000 acre feet of water in 1997 through indirect recharge with eight irrigation districts as partners and through direct recharge at three underground storage facilities. The Authority expects to add new irrigation district partners and to store water at additional underground storage facilities in 1998.

1997 was a highly successful year for the Water Bank. I am extremely proud of its accomplishments in its first full year in operation and am confident that the Bank will continue to fulfill Arizona's important water policy goals.

Sincerely,

Rita P. Pearson, Chairman
Arizona Water Banking Authority



***Message from the Chairman of the
Arizona Water Banking Authority***

draft

Arizona Water Banking Authority *Annual Report Requirement*

Arizona Revised Statutes section 45-2426 provides that the Arizona Water Banking Authority (AWBA) must file an Annual Report each year. The report must be submitted to the Governor of Arizona, President of the Arizona Senate, and Speaker of the Arizona House of Representatives on or before July 1 of each year and must contain a full and complete account of its transactions and proceedings for the preceding calendar year. The report must contain all of the following:

- An accounting of all monies expended from the banking fund.
- An accounting of all monies in the banking fund remaining available to the Authority.
- The amount of water stored by the Authority.
- The number of long-term storage credits distributed or extinguished by the Authority.
- The purposes for which long-term storage credits were distributed or extinguished by the Authority.
- Any other matter determined by the Authority to be relevant to the policy and purposes of this chapter.

In 1997, the statute was amended so that the Annual Report would reflect the activity of the previous calendar year (January to December) rather than the fiscal year (July to June).

Arizona Water Banking Authority *Members*

Authority membership was unchanged in 1997 except for two new *ex officio* members. By statute, the President of the Arizona Senate and the Speaker of the Arizona House of Representatives each appoints one legislator as a non-voting member of the Authority. Information on the two new *ex officio* members of the Authority appears below.

THE HONORABLE PAT CONNER¹ - Senator Conner was appointed as an *ex officio* member of the Arizona Water Banking Authority by Senate President Brenda Burns in October 1997. Senator Conner is involved in real estate and investments in the Yuma area and owns Soft Cloth Car Washes. Senator Conner was elected to the Arizona State Senate in January 1997. He served in the House of Representatives from 1993-96. Mr. Conner previously served on the Yuma County Board of Supervisors 1984-92. Mr. Conner is currently serving on the Appropriations Committee, Commerce & Economic Development Committee (as Vice Chairman), Judiciary Committee, and Natural Resources, Agriculture & Environment Committee (Chairman). Senator Conner is a native of Arizona and attended Arizona Western College and University of Arizona, and graduated from ASU with a business major in 1968. He served with the National Guard from 1968 through 1972.

THE HONORABLE GAIL GRIFFIN - Ms. Griffin represents District 8 in the Arizona House of Representatives. Ms. Griffin serves as co-chairman of the State Natural Resources and Agriculture committee and as a member of the Commerce, Environment and Government Operations committees. She also serves on three national committees; Vice Chair of the Environment Committee and as member of the Education Committee of the National Conference of State Legislators (NCSL), and the Environment Committee of the “American Legislative Exchange Council” (ALEC). Ms. Griffin is also a member of the Western States Coalition, Arizona/New Mexico Coalition of Counties, Society for Environmental Truth, People for the West, The Arizona Town Hall, the Sierra Vista Sunrise Rotary Club, and a graduate of Project Central (Rural Leadership program, University of Arizona), Arizona’s Housing Commission, Arizona Water Protection Fund, and the Rural Business Incubator Advisory Board. Ms. Griffin has lived in Arizona for almost 30 years and is a licensed real estate broker at Sierra Vista Realty and has been in the real estate profession for 23 years.

“Quote by Rep. Griffin . . .”



“Quote by Sen. Connor . . .”

¹Representative Griffin replaced Representative Bill McGibbon when the new Speaker of the House was named in October 1997.

Arizona Water Banking Authority

Rita P. Pearson
Chairman

Tom Griffin
Vice-Chairman

Bill Chase
Secretary

Grady Gammage, Jr.
Member

Dick Walden
Member

Ex Officio
Senator Pat Conner
Representative Gail Griffin

Tim Henley
Manager

Kim Kunasek
Technical Administrator

Nan Flores
Administrative Assistant

The Arizona Water Banking Authority

History and Overview

Balancing the tremendous water, power, and recreational demands placed on the Colorado River while providing needed flood control is a growing burden as demand on the system increases. The Colorado River was first allocated by the Colorado River Compact of 1922. The Compact apportioned 7.5 million acre feet (maf) of Colorado River water to both the Upper Basin (Wyoming, Colorado, Utah, and New Mexico) and the Lower Basin (Arizona, Nevada, California). Although the seven basin states signed the Compact, Arizona chose not to ratify it because it did not specifically quantify Arizona rights to the Colorado River.

In 1928 the United States Congress enacted the Boulder Canyon Project Act (BCPA), approving the substance of the Colorado River Compact with more specificity. The BCPA allocated the 7.5 maf Lower Basin allocation annually to Arizona, Nevada, and California in the following amounts:

<u>Nevada:</u>	300,000 af plus 4 % of any surplus
<u>Arizona:</u>	2.8 maf plus 46% of any surplus
<u>California:</u>	4.4 maf plus 50% of any surplus

For over 70 years, Arizona leaders have worked to ensure that Arizona's communities have dependable long-term water supplies. From securing the state's fair share of Colorado River water and gaining Congressional authorization of the Central Arizona Project (CAP) to crafting the 1980 Groundwater Management Code, their foresight and planning has provided the water supply that serves our growing communities and maintains our quality of life. During the 1996 legislative session, Governor Symington and the State Legislature continued the tradition by creating the Arizona Water Banking Authority (AWBA).

Until the AWBA was created, Arizona did not use its full 2.8 million acre foot (maf) share of Colorado River water. Without the AWBA, Arizona would not have used its full allocation until the year 2030. During that interim period, the accumulated amount of water left in the Colorado River would have amounted to approximately 14 million acre feet. Most of that water would have gone to southern California.

Leaving a portion of Arizona's water in the Colorado River was a lost opportunity. The AWBA seizes this opportunity and gives Arizona the capability to further secure the dependable water supplies necessary to ensure the state's long-term prosperity.



“Quote by Tom . . .”

The AWBA was created to store unused Arizona Colorado River water to meet future needs for:

- (1) Assuring adequate supply to municipal and industrial users in times of shortages or disruptions of the CAP system;
- (2) Meeting the management plan objectives of the Arizona Groundwater Code;
- (3) Assisting in the settlement of Indian water rights claims; and
- (4) Exchanging water to assist Colorado River communities.

The AWBA is an institution that will guide Arizona water planning into the next century. By storing substantial amounts of water in central Arizona, the AWBA safeguards against future shortages on the CAP system, assists in meeting the goals of the Groundwater Code, and aids neighboring states without harming Arizona. The AWBA is Arizona's "water savings account" that ensures that the water supplies future generations inherit from us are just as secure as those we inherited.

How the Water Bank Works

Each year, the Water Bank pays the delivery and storage costs to bring Arizona's unused Colorado River water into Central and Southern Arizona through the Central Arizona Project. The water is stored underground in existing aquifers ("direct recharge") or is used by irrigation districts in lieu of pumping groundwater ("indirect recharge" or "in lieu recharge"). For each acre foot stored, the Water Bank accrues a credit that can be redeemed in the future when Arizona's communities need this backup water supply.

Key Benefits of Water Banking

Drought Protection

The AWBA protects communities dependent on the CAP by providing a stored reserve of water that can be tapped in future times of drought on the Colorado River.

Enhanced Water Management

The AWBA provides the ability to replenish depleted groundwater aquifers with CAP water, thereby helping Arizona meet its groundwater management goals and objectives.



"Quote by Dick . . ."

Indian Water Rights Settlements

Indian tribes in Arizona have significant claims to water rights. Often the affected parties negotiate settlements to resolve these claims. The AWBA provides another pool of water to be used in settlements. For instance, credits for stored groundwater can be transferred to a tribe as a component of a settlement.

Statewide Benefit

Arizona communities along the Colorado River can also benefit. For example, cities in Mohave County may acquire credits through the AWBA for water stored in central Arizona and redeem those credits by diverting water directly from the Colorado River.

Interstate Water Transfers

The AWBA could contract with similar authorities in California and Nevada to allow these states to annually acquire a portion of Arizona's temporary surplus of Colorado River water. The contracting state would pay to store water in Arizona, helping to replenish Arizona's aquifers, and in the future would be able to draw a similar quantity directly from the Colorado River. The program does not involve the sale of any future rights to water, only a specific quantity of unused water. Recently promulgated Department of the Interior rules set forth the federal requirements for interstate water banking.

Water Bank Funding

Much of the money comes from existing revenue sources and from fees that are charged to those benefiting directly from the stored water. Sources of money include:

- Fees for groundwater pumping currently collected within the Phoenix, Pinal, and Tucson Active Management Areas (AMAs). In the Phoenix AMA, Tucson AMA, and most areas of the Pinal AMA, pumping fees for water banking purposes are \$2.50 per acre foot. For groundwater pumping in areas of the Pinal AMA not served by the CAP, the \$2.50 fee phases in over seven years. *Money from this source must be used for the benefit of the Active Management Area in which it was collected.*
- The CAP is authorized to levy a four cent *ad valorem* property tax in the CAP service area to pay for water storage. To help finance the AWBA's efforts, the tax will be extended through 2016 and revenues will be deposited in the Fund. The CAP retains the option to use this money for capital repayment of the CAP if necessary. The CAP determined that it did



“Quote by Bill . . .”

- not require these funds for its purposes in 1997, so approximately \$8 million were deposited into the Water Banking Fund for the purchase of water for storage. *Money from this source must be used to benefit the county in which it was collected.*
- A general fund appropriation based on the level of water storage the amount the Arizona Legislature and Governor believe to be appropriate. The 1997 appropriation amounted to \$2 million. *Water stored with these funds may be used to assist communities along the Colorado River, to help the State meet its water management objectives, or as a component of an Indian water rights settlement.*
- Fees collected from the sale of stored water credits used for drought protection. Fees are charged only if the credits were originally paid for with general fund money.
- Money collected by the sale of stored water credits to out-of-state interests.

Future Opportunities for the Water Bank

When it created the AWBA, the Arizona Legislature created a Study Commission to investigate opportunities for additional water banking uses, identify mechanisms to encourage participation in the program by Indian communities with rights to Colorado River water, and review the first year of the AWBA's operation. The Study Commission consists of the AWBA members and two *ex officio* members plus nine people appointed by the Director of the ADWR. The ADWR is responsible for staffing of the Study Commission with the AWBA's assistance.

The Study Commission has completed a comprehensive Interim Report containing research findings, conclusions, and recommendations regarding the issues it considered. The final report is due in November 1998.

Update on the Water Bank

The AWBA has been working diligently to carry out its mission to take the formerly unused portion of Arizona's Colorado River allotment and recharge the water in Arizona to develop long-term storage credits for future use. This recharge by the AWBA is not meant as a substitute for existing uses or storage of Colorado River water by entities in Arizona but as a means of utilizing Colorado River water that would otherwise go unused by Arizona.

The AWBA holds monthly meetings at the ADWR to keep the public apprised of its progress and has held additional meetings with entities interested in potential direct or in-lieu recharge.



“Quote by Grady . . .”

Representatives from California and Nevada have attended several of these AWBA meetings, and interstate water banking continues to be a topic of discussion.

The AWBA members and staff meet annually with all current and potential recharge entities in developing the Annual Plan of Operation. These entities include the Salt River Project (SRP), the CAP, and all permitted irrigation districts in Maricopa, Pinal, and Pima counties. All potential recharge opportunities are then matched with delivery capacities of the CAP aqueduct. The AWBA systematically adjusts each entity's amount to match CAP delivery constraints. An analysis is then made of the amount of potential recharge in each AMA/county, and the amount of funds generated in each AMA/county by month to keep monies in the AMA/county of generation.

The AWBA recharged approximately 330,000 acre feet of CAP water in 1997. Total consumptive use by Arizona for 1997 was approximately 2.7 million acre feet (maf), including: 1.38 maf project Colorado River uses along the river; CAP subcontractor deliveries of an estimated 975,000 acre feet (af), including M&I, Indian, Agricultural Pools 1, 2, and 3, and incentive recharge water; and approximately 330,000 af for recharge by the AWBA.

Conclusion

By storing substantial amounts of water in central Arizona, the AWBA safeguards against future shortages on the CAP system, assists in meeting the goals of the Arizona Groundwater Code, and aids neighboring states without harming Arizona. The AWBA is Arizona's "water savings account" and ensures that the water supplies future generations inherit from us are just as secure as those we inherited.

For more information about the Water Banking Authority, please consult our web page at:

www.awba.state.az.us

or contact Tim Henley (tjhenley@adwr.state.az.us) or Kim Kunasek (kskunasek@adwr.state.az.us).

Arizona Water Banking Authority
Activities and Projects
1997

Below is a summary of significant events in the Arizona Water Banking Authority in 1997.

- CAVSARP dedication
- AWBA Meetings in Tucson (9/96), Lake Havasu (10/96), Yuma (12/96), and Oro Valley (9/97)
- Several articles about the authority (provide bibliography, including USA Today, water trade publication, Arizona Republic)
- Study Commission Interim Report, November 1997 [include outline]
- Negotiated permits with irrigation districts [reference chart showing “amount of water stored by the authority” per A.R.S. 45-2426 (3)]
- List of various recharge partners (new partners in 1998 based on 1997 negotiations -- Tonopah)
- Web page
- Innovations in American Government Application
- Preliminary meetings with GRICs and other Indian nations regarding on-reservation water banking
- Interstate water banking -- proposed federal rules released on Dec. 31
- Numerous discussions with Nevada and California over interstate water issues
- Bank will likely seek changes in 1999 legislative session to explicitly allow for water exchanges
- Pledged credits to Mohave County and other Col. River communities

Monies Expended from the Banking Fund

Calendar Year 1997

The Bank currently obtains its funding from three sources:

1) Fees for groundwater pumping currently collected within the Phoenix, Pinal, and Tucson Active Management Areas (AMAs). In the Phoenix AMA, Tucson AMA, and most areas of the Pinal AMA, pumping fees for water banking purposes are \$2.50 per acre foot. Fees are based on annual groundwater pumping in the AMAs. The AMAs file their reports of groundwater pumping in March of each year. The Bank consequently collects fees for the previous year groundwater pumping in May following submittal of the AMA's groundwater pumping report.

No groundwater pumping fees were collected in 1997; the Bank will begin to receive funds from groundwater pumping in 1998. *Money from this source must be used for the benefit of the Active Management Area in which it was collected.*

2) The CAP is authorized to levy a four cent *ad valorem* property tax in the CAP service area to pay for water storage. Please note that the Bank receives monies collected from the 4¢ tax in two installments: one payment is due in November of each year, and the Bank receives these revenues in December; the second is due in April, and the Bank receives these revenues in May. To help finance the AWBA's efforts, the tax will be extended through 2016 and revenues will be deposited in the Fund. *Money from this source must be used to benefit the county in which it was collected.*

3) A general fund appropriation in the amount the Arizona Legislature and Governor believe to be appropriate. The 1997 appropriation amounted to \$2 million. General fund monies are available to the Bank on a quarterly basis and can be spent throughout the year, but other monies are only available to the Bank at specific times of the year. *Water stored with these funds may be used to assist communities along the Colorado River, to help the State meet its water management objectives, or as a component of an Indian water rights settlement.*

In 1997, the Water Bank statute governing annual reports was amended to require accounting on a calendar year (January to December) rather than fiscal year (July to June) basis. Fiscal Year 1997 covers July 1, 1996 through June 30, 1997, but fiscal activity from those six months were not included in the 1996 Annual Report. The last six months of the 1996 calendar year are included in this 1997 Annual Report because funds from that period would otherwise go unreported in any published document.

Table 1 shows the source of location of fees collected by the Water Bank and details funds expended and remaining in the Water Banking Fund.

Table 1

<i>Source & Location</i>	<i>Collected</i>	<i>Expended</i>	<i>Remaining</i>
General Fund	\$3,000,000	\$2,791,000	\$209,000
<i>Sub-Total</i>	\$3,000,000	\$2,791,000	\$209,000
4¢ Ad Valorem Tax			
Maricopa County	\$ 8,197,000	\$4,479,000	\$3,718,000
Pinal County	337,000	295,000	42,000
Pima County	1,654,000	1,067,000	587,000
<i>Sub-Total</i>	\$10,188,000	\$5,841,000	\$4,347,000
Groundwater Pumping Fee			
Phoenix AMA	n/a		
Pinal AMA	n/a		
Tucson AMA	n/a		
<i>Grand Total</i>	\$13,188,000	\$8,632,000	\$4,556,000

Appendix 1

Arizona Water Banking Authority

Water Stored in Calendar Year 1997

One acre foot = 325,851 gallons

Credits earned by the Water Bank are computed by subtracting 5% for losses and 5% for a “cut to the aquifer” from the *total annual deliveries*

Phoenix Active Management Area (AMA)

Approximately 133,000 af of credits were developed with the four cent property tax collected in Maricopa County for future use by communities in Maricopa County. Approximately 16,000 af of credits were developed using General Fund monies. Credits developed from general fund monies may be used by communities along the Colorado River during droughts, to help achieve water management objectives, or as a component of an Indian water rights settlement.

<i>Partner</i>	<i>Water Delivered</i>
Chandler Heights Citrus and Irrigation District (CHCID).....	0
Maricopa Water District.....	5,103
Queen Creek Irrigation District (QCID).....	19,610
Granite Reef Underground Storage Project (GRUSP).....	40,922
New Magma Irrigation and Drainage District (NMIDD).....	47,200
Roosevelt Water Conservation District.....	49,158

Pinal Active Management Area (AMA)

Approximately 14,000 af of credits were developed by the four cent property tax collected in Pinal County for use by communities in Pinal County. Approximately 134,000 af of credits were developed using General Fund monies.

<i>Partner</i>	<i>Water Delivered</i>
Central Arizona Irrigation and Drainage District (CAIDD).....	45,000
Hohokam Irrigation and Drainage District (HIDD).....	51,121
Maricopa-Stanfield Irrigation and Drainage District (MSIDD).....	64,980

Tucson Active Management Area (AMA)

Approximately 3,000 af of credits were developed with the four cent property tax levied in Pima County for use by communities in Pima County. No credits were developed using General Fund monies.

<i>Partner</i>	<i>Water Delivered</i>
Avra Valley (CAP).....	2,157
Central Avra Valley Storage and Recovery Project CAVSARP).....	984
Pima Mine.....	0
Lower Santa Cruz.....	0

Total Water Banking Authority Deliveries.....326,235

Appendix 2

Arizona Water Banking Authority

Number of Long-Term Storage Credits Distributed or Extinguished by the Authority

- No long-term storage credits were distributed or extinguished by the Authority in 1997.

draft

Excerpt from pretrial statement of the Central Arizona Water Conservation District
Pretrial conference held on May 11, 1998
Federal District Court for the District of Arizona
Chambers of Judge Earl Carroll

6. Legality of deliveries of CAP water to/for the benefit of the Arizona Water Banking Authority

a. United States

1. Statement

Past (1997) and current (1998) water deliveries by the CAWCD of Colorado River water to the Arizona Water Banking Authority: (1) violate 43 U.S.C. § 617d [Contracts for storage and use of waters for irrigation and domestic purposes]; (2) are not authorized by the Amended Master Repayment Contract ("AMRC"); (3) have not undergone required compliance with the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq.; and (4) have not undergone required compliance with the Endangered Species Act, 16 U.S.C. §§ 1531-1544.

2. Issues of Law

- Whether the Secretary of the Interior has authorized the CAWCD to deliver Colorado River water that is not under a water service contract with the Secretary.
- Whether any CAP water, which the CAWCD purportedly resells to the Arizona Water Banking Authority pursuant to the authority of Article 8.7(e) of the AMRC, must have originally been sold pursuant to the terms and conditions of a subcontract, and if so, what are such terms and conditions, and were they ever met.
- Whether the CAWCD is authorized to sell CAP water to the Arizona Water Banking Authority other than pursuant to Article 8.7(e) of the AMRC, and if so, what is such other authority.
- Whether the 1997 contract signed by the CAWCD and Arizona (the Arizona Water Banking Authority) provides a valid, legal basis for the delivery of Colorado River water to/for the benefit of the Arizona Water Banking Authority.

3. Issues of Fact

- Whether the entire CAP water supply is currently under a water delivery contract with the Secretary of the Interior.
- Whether the CAWCD has delivered CAP water to/for the benefit of the Arizona Water Banking Authority, and if so, how much water has been delivered.
- Whether the Arizona Water Banking Authority has a water delivery contract with the Secretary of the Interior.
- Whether the NEPA/ESA compliance documents prepared by the United States in conjunction with the AMRC provided for or contemplated deliveries of upwards of 300,000 acre feet annually to the Arizona Water Banking Authority.
- Whether any NEPA/ESA compliance documents prepared by the United States subsequent to the execution of the AMRC provided for or contemplated deliveries of upwards of 300,000 acre feet annually to the Arizona Water Banking Authority.

ARIZONA DEPARTMENT OF WATER RESOURCES

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JANE DEE HULL
Governor

RITA P. PEARSON
Director

MEMORANDUM

TO: Arizona Water Banking Authority Study Commission Members
and Other Interested Parties

FROM: Herb Dishlip

DATE: May 13, 1998

SUBJECT: Upcoming Study Commission meetings

The following Study Commission meetings have been scheduled:

Indian Issues Subcommittee	Monday, May 18, 1998 9:30 a.m. - 11:30 a.m. Phoenix Office of ADWR 500 North 3rd Street 3rd Floor Conference Room B
Benefits Outside CAP Service Areas	Wednesday, May 20, 1998 1:00 p.m. - 3:00 p.m. Phoenix Office of ADWR 500 North 3rd Street 3rd Floor Conference Room A
Full Study Commission	Thursday, June 11, 1998 10:00 a.m. - 2:00 p.m. Phoenix Office of ADWR 500 North 3rd Street 3rd Floor Conference Room B

The meeting previously scheduled for May 22nd has been canceled. The Marketing Issues Subcommittee and the Financial Issues Subcommittee have completed their discussions and no additional meetings have been scheduled.

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

San Diego County Water Authority
Press Release
April 29, 1998

Landmark water conservation and transfer agreement ratified

Officials from the San Diego County Water Authority and the Imperial Irrigation District (IID) today signed a historic water conservation and transfer agreement that will benefit California and San Diego and Imperial counties, and advance Western water policy. The agreement, believed to be the largest water transfer in United States history, allows San Diego County to receive up to 200,000 acre-feet of water conserved by the Imperial Irrigation District each year.

The contract signing followed approval of the agreement by the boards of directors of both public agencies, with the Authority board voting earlier in the day. The IID board voted to approve the agreement on Tuesday.

For San Diego county, the landmark agreement will result in a long-term, more reliable water supply at a competitive price. As such, the transfer agreement will also protect the region's \$87 billion economy from threats posed by drought and other prolonged water supply shortages.

For the Imperial Valley, the water transfer will protect the area's water rights, bolster the local economy and provide for affordable conservation without land fallowing.

"The signing of this historic agreement heralds a new era of water supply reliability in the San Diego region," said Chris Frahm, Chairwoman of the San Diego County Water Authority Board of Directors. "In approving this water transfer contract, we have acted to ensure that San Diego County will have a safe, reliable water supply well into the next century."

Under the agreement's terms, IID would transfer conserved agricultural water to the

Authority for at least 45 years. Either party could extend the agreement by 30 years. Transfers would total 20,000 acre-feet during the first year and would increase annually in 20,000 acre-feet increments until they reached a minimum of 130,000 acre-feet or a maximum of 200,000 acre-feet. If IID determines it can make additional water available through conservation, the two agencies may agree to transfer an additional 100,000 acre-feet a year, starting no sooner than 10 years after the start of deliveries.

"With this agreement, we are taking control of our own destiny and securing the future of the Imperial Valley," said Lloyd Allen, president of the IID Board of Directors. "Farming and agriculture-related businesses will remain the cornerstone of our community, our local

economy will get a boost, and opportunities for future growth in the valley will be secured. Most importantly, the valley's water rights, held in trust by IID, will be protected."

Under the terms of the agreement, the cost of water would be determined through a formula outlined in the contract. The formula takes the price the Authority pays MWD for water plus other MWD rates and charges and subtracts the estimated price for transporting, or "wheeling," the transferred water through the Colorado River Aqueduct. Once that figure is determined, the price would be discounted. The discount is 25 percent the first year, declining gradually until stabilizing at 5 percent in year 17 of the agreement.

In addition, if the Authority experiences water shortages as defined in the agreement, the Authority will pay IID a "shortage performance premium."

The agreement provides for a "price redetermination" process through which the price may adjust to reflect the market value of IID water. The redetermination process would begin no sooner than 10 years after the start of deliveries, provided that an active California water market develops.

A number of contingencies must be satisfied before any water will be transferred to the Water Authority. The Authority must arrange for the conveyance of the water to San Diego; IID must meet specified targets for participation by its farmers; both agencies must be able to reasonably mitigate environmental impacts of the transfer; and necessary state and federal approval must be obtained. Once the contingencies are met, the water from IID will start to flow into San Diego County. The Authority estimates that could begin within three to five years.

By law, California is entitled to 4.4 million acre-feet of Colorado River water each year. It regularly exceeds that amount by about 20 percent, with almost all the extra water going to the Metropolitan Water District. This has been a concern to San Diego -- which was faced with 50

percent water supply cutbacks during the last drought -- and is also a concern to other states that rely on Colorado River water. Secretary of the Interior Bruce Babbitt has ordered California to develop a plan to live within its water entitlement. In response, the Colorado River Board of California, working with State Department of Water Resources Director David Kennedy, is developing the "California 4.4 Plan." The IID/SDCWA water conservation and transfer agreement is a cornerstone of the 4.4 Plan.

"There is no question that the benefits of this agreement extend far beyond serving the water supply needs of the 2.6 million residents in the San Diego region," Frahm said. "Even more fundamentally, the agreement provides a Southern California solution to a Southern California water problem. A successful California 4.4 Plan will, in turn, provide the foundation necessary for the development of a successful CALFED plan for the sensitive Sacramento-San Joaquin River Delta."

The San Diego County Water Authority is a public agency that works through its 24 member agencies to provide a safe, reliable water supply to more than 2.6 million county residents.

The Imperial Irrigation District serves agricultural water to 500, 000 acres of productive farm land in the Imperial Valley.

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Congressional Leaders Announce Support for Salton Sea Restoration

House Speaker Newt Gingrich and Representative George Miller (D-CA) have announced their support for a new bill, the Sonny Bono Memorial Salton Sea Restoration Act. The Act, introduced by the Salton Sea Task Force (California Congressmen Jerry Lewis, Duncan Hunter, George Brown & Ken Calvert), would authorize spending more than \$300 million in federal funds to finance projects to restore the Salton Sea. Estimates of the total cost range from \$300 million to more than \$1 billion. The late Congressman Sonny Bono campaigned in favor of the project, as a member of the Congressional Salton Sea Task Force. Mary Bono, his widow, appointed to fill his position following his death in a skiing accident in January 1998, is continuing his work. The measure has obtained widespread bi-partisan support in the House. President Clinton and California Governor Pete Wilson also back the plan.

The 350 square mile Salton Sea was created nearly 100 years ago during flooding of the Lower Colorado River that followed a break in an irrigation canal. It quickly became the habitat of fish and migrating wildfowl and a favorite recreation site. But its water quality has deteriorated markedly in the past decade because it is replenished only through agricultural run-off and polluted streams from Mexico and has no natural outflow. Today, the lake's salinity levels are 30 percent higher than those in the Pacific Ocean, and concentrations of toxic contaminants have grown rapidly. Last year, 6,000 birds were reported killed by pollutants on its shores and, in the summer, odors from the polluted water often reach as far as Palm Springs, thirty miles away. Computer models predict that within 30 years the sea will no longer support fish life. Shrinking tourism in the area is estimated to cost the state and local governments \$200 million in lost tax revenues.

The goals of the project are to reduce and stabilize overall salinity to a level of between 35 parts and 40 parts per thousand, stabilize surface elevation of the sea to a level between 240 feet and 230 feet below sea level, reclaim healthy wildlife resources, and enhance recreational uses. The details of the strategy to achieve these objectives have yet to be worked out and are even now being analyzed. They are likely to involve the creation of dikes to isolate a portion of the sea to allow evaporation to leave behind the salt deposits. Although the Congressmen hope for speedy action as a result of the bill, Interior Secretary Bruce Babbitt has said that it may take up to two years to finally decide the best way to restore the Salton Sea.

The proposed legislation would authorize spending \$22.5 million for feasibility studies, environmental compliance and necessary permitting, \$5 million for biology, toxicology, hydrology, and pathology studies related to fish and wildlife in the Salton Sea, and \$300 million for phase 1 construction.

Salton Sea Study

The Salton Sea area is located in the southeast desert of California. It is bordered on three sides by mountains and adjoins the Mexicali Valley of Mexico on the south. The area occupies the northern part of the Salton Trough which is a topographic and structural depression. This depression is a landward extension of the Gulf of California, from which it is separated by the broad fan delta of the Colorado River.

Inflow to the Salton Sea comes from:

- The New River, a mixture of municipal, industrial, and agricultural flows from the City of Mexicali and agricultural drainage from the Imperial Valley;
- The Alamo River, predominantly agricultural drainage from the Imperial Valley;
- The Whitewater River, agricultural return flow from the Coachella Valley along with runoff from the local mountains;
- San Felipe Creek, flow from the local mountains.

There is no outlet to the Salton Sea.

Agriculture in the Imperial Valley occupies approximately 500 thousand acres and receives about three million acre-feet of Colorado River water from the All-American Canal for irrigation. The Salton Sea National Wildlife Refuge is at the southern end of the Salton Sea. Annually, over one million birds are estimated to migrate through the area, making the refuge a major stopover on the Pacific Flyway. The Salton Sea area provides significant wintering habitat for over 450,000 ducks, and up to 30,000 Snow and Ross's geese. At least 25 species of waterfowl have been identified in the area. Winter shorebird counts have documented over 55,000 birds, including 38 shorebird species which feed in the natural mud flats or refuge ponds.

Agricultural drainage from the Imperial Valley contains elevated levels of selenium and other salts as a result of evaporative concentration of irrigation water in the clayey soils. Birds feeding in the Salton Sea area are at risk of selenium contamination. This contamination occurs as lower food chain organisms accumulate selenium to higher levels than their surroundings and are fed upon by higher food chain organism. With each succeeding level, selenium concentration magnifies. At greatest risk are the larger fish-eating birds such as the double-crested cormorant, great blue heron, and the cattle egret which have fairly long food chains. Other birds such as the black-necked stilt, American coot, eared grebe, northern shoveler, and the ruddy duck also have elevated selenium concentrations in tissues, livers, and/or eggs. Concentrations, however, are lower because of shorter food chains..

As an outgrowth of the selenium contamination problem at Kesterson National Wildlife Refuge, in 1986 the Department of Interior's National Irrigation Water-Quality Program (NIWQP) selected the Salton Sea area for investigation. These studies, which have continued to the present, have documented the source, transport, and fate of selenium in the hydrologic and biologic cycles of the Salton Sea area. Other contaminants of concern include boron and organochlorine pesticide residues.

Current studies in the Salton Sea area are aimed at providing detailed information necessary for remediation to occur. Using information from previous investigations of water, bottom sediment, and biota in the Salton Sea area, these new studies have been designed to determine:

- The areal distribution of selenium in subsurface drainwater;
- Selenium concentrations in water and bottom sediments of surface drains conveying agricultural drainage;
- Biological uptake of selenium in surface drains;
- The biological use of surface drains and the Alamo River.

These current projects are multi-agency efforts involving the Bureau of Reclamation, U.S. Fish and Wildlife Service, U.S. Geological Survey, and Imperial Irrigation District.

Water related issues in the Salton Sea area are often complex, and, in many cases, present conflicting options where the solution to one problem exacerbates another problem. The Salton Sea Authority, comprised of the Coachella Valley Municipal Water District, County of Imperial, County of Riverside, and Imperial Irrigation District, was formed to address the problem of increasing salinity of the Sea. The Bureau of Reclamation is involved as a partner in these efforts as well as taking a leadership role in the on-going NIWQP activities. Imperial Irrigation District is actively involved in these activities as well as their own water-related programs. Oversight in all activities related to enforcement and interpretation of existing and future water-quality standards and criteria is provided by the Regional Water Quality Control Board, Region VII.

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Summary Sheet
Comments on Proposed Rule for Offstream Storage of Colorado River Water
 62 FR 68491 et seq., dated December 31, 1997 (43 CFR Part 414)

Concern	Comment
General concerns	
<u>Scope of rule</u>	<ul style="list-style-type: none"> • Narrow scope of rule to allow offstream storage only by the Arizona Water Banking Authority. • Premature to promulgate a rule for offstream storage in California before the California 4.4 Plan is agreed upon.
	<ul style="list-style-type: none"> • Not clear that rule would apply to changes in Arizona law or to laws that California or Nevada may enact. • Rule should have a limited term (5 to 10 years) covering the years that storage is anticipated so the effects can be re-evaluated.
	<ul style="list-style-type: none"> • Public was denied an opportunity for input into scoping process. • Rule should include river management policies for operating criteria, water deliveries, determining reasonable beneficial use, and for approving water banking and transfers.
	Rule should address both intrastate and interstate banking.
	<ul style="list-style-type: none"> • Rule should either be expanded to include needs of California and tribes or modified to apply only to Nevada-Arizona transfers. • Indirect storage is water marketing, not groundwater savings.
<u>Secretary's discretion</u>	Rule will reduce Secretary's discretion to make annual determinations under Article II(B)(6) of the Decree.
	Believes effects to Secretary's discretion have not been evaluated.
	Reclamation needs to complete MSCP process to identify Secretary's discretion.
<u>Government jurisdiction</u>	<ul style="list-style-type: none"> • Using State authorized entities delegates Federal authority to the States and is not consistent with Arizona v. California. • Conflicts with Public Law 280 which preempts state jurisdiction over Indian water rights.
	Secretary abdicates authority by allowing States to determine who is an authorized entity.
	Request Department to conduct government-to-government consultations with Tribes.
	Secretary should adopt a comprehensive conservation and management plan to protect the environment before doing this rule.
	Rule should address legal status of banked CAP water and determine if such water is controlled by State or Federal law.

<u>Participation of entitlement holders</u>	Entitlement holders should not be allowed to store unused entitlement pursuant to an Interstate Storage Agreement (ISA).
<u>Indian concerns</u>	<p data-bbox="602 264 1507 348">The entitlement holder should be able to bank or market water.</p> <p data-bbox="602 348 1507 436">Forbearance by a tribe will not diminish right of the State in which tribe's entitlement is located to fully use State's apportionment.</p> <ul data-bbox="602 436 1507 525" style="list-style-type: none"> <li data-bbox="602 436 1507 470">• California tribes not notified of the pending rule. <li data-bbox="602 470 1507 525">• Don't understand how rule can ignore tribal interests. <p data-bbox="602 525 1507 613">Tribes must be able to make full use of their water rights, including right to lease water off the reservation.</p> <p data-bbox="602 613 1507 701">Tribes can't contract with others for their water rights except to lease tribal trust lands and then only with the Secretary's consent.</p> <ul data-bbox="602 701 1507 852" style="list-style-type: none"> <li data-bbox="602 701 1507 772">• Secretary ignores his responsibility by deferring action on methods to assure tribes fully benefit from their water rights. <li data-bbox="602 772 1507 852">• Secretary's support of rule without addressing Indian issues gives States no incentive to provide benefits to the tribes. <p data-bbox="602 852 1507 940">Believes Secretary's inaction in resolving Indian marketing issues will set a bad precedent for Upper Basin tribes.</p> <p data-bbox="602 940 1507 1029">Tribes must have right to protect its groundwater rights in aquifers that are hydraulically connected to basins where water is stored.</p> <p data-bbox="602 1029 1507 1108">Department should allow tribes to market their CAP allocations both intrastate and, the same as the State.</p>
<u>Groundwater issues</u>	<p data-bbox="602 1108 1507 1163">Storage of Colorado River water may reduce groundwater quality.</p> <ul data-bbox="602 1163 1507 1251" style="list-style-type: none"> <li data-bbox="602 1163 1507 1197">• Could an ISA be used to permanently restore ground water. <li data-bbox="602 1197 1507 1251">• Storage may produce negative impacts to tribal resources. <p data-bbox="602 1251 1507 1373">Use of CAP facilities to allow Arizona to use stored water that will benefit another State is at odds with the CAP Act and the primary purpose of the Arizona Water Bank to assure a permanent water supply for central Arizona.</p> <p data-bbox="602 1373 1507 1461">Clarify how this proposal fits within the regulatory framework for groundwater protection in each State and the Federal role in such.</p> <p data-bbox="602 1461 1507 1575">Rule should incorporate the "acre-foot for acre-foot" groundwater pumping restrictions from the CAP amended master repayment contract and the agricultural subcontracts.</p>
<u>Production of power</u>	<ul data-bbox="602 1575 1507 1785" style="list-style-type: none"> <li data-bbox="602 1575 1507 1608">• Banking will increase power costs to CAWCD. <li data-bbox="602 1608 1507 1680">• Reclamation should analyze the impacts of the decrease in power at Hoover and Davis Dams. <li data-bbox="602 1680 1507 1785">• Rule should provide for compensation of power customers to prevent them from subsidizing water banking.

<u>Revenue issues</u>	<p>No discussion of cost of monitoring storage to distinguish tribal from non-tribal water in areas where storage area includes portions of aquifers lying under trust lands</p> <ul style="list-style-type: none"> • Include into rule provisions included on page 68493 of preamble that require adjustment in repayment terms for transfers. • Require Arizona to use “revenue” from ISA to repay the CAP debt to the United States. • Don’t allow speculation to occur with regard to assignments. <p>Don’t allow extra non-reimbursable expenses to store water or deliver it to a new location.</p>
<u>California 4.4 Plan issues</u>	<ul style="list-style-type: none"> • Encourage Reclamation to assure the proposed rule acknowledges and is consistent with the California 4.4 Plan. • Later rules, if needed, can address banking in California after the California 4.4 Plan is completed, when need arises. <p>Parties to 7 Party agreement must approve transactions that involve a California entity.</p> <p>All parties to 7 Party agreement do not need to approve transactions that involve a California entity.</p> <p>Shortage and surplus criteria need to be developed in order to analyze the full impact of this rule.</p> <p>Rule is premature before surplus is defined.</p>
<u>Equalization</u>	<p>Concerned that actions could reduce probable long-term frequency of spills from Glen Canyon Dam and affect flood control criteria.</p>
<u>Reiteration of existing law</u>	<ul style="list-style-type: none"> • Ensure definitions are consistent with the precise language contained in the various components of the Law of the River. • Precise wording is crucial. <p>Clearly express the Department’s recognition of the unique nature of tribal reserved water rights.</p>
<u>Authorized Entity</u>	<p>Suggest a two part definition of this term so as to not raise barriers to qualification as a Consuming State:</p> <ul style="list-style-type: none"> • Authority for Storing State based on express authorization. • Authority for Consuming State based on power to sign ISA’s. <p>Term must be defined narrowly for to obtain Arizona’s support.</p> <p>Define term broadly to ensure broad participation.</p> <p>Not clear tribes could be authorized entities or what process they could take to become self-authorizing.</p> <p>Leave definition up to States.</p> <ul style="list-style-type: none"> • Definition is limiting if it limits entities to those with a contract. • The type of “express authorization” required is not clear. • Needs to clarify extent to which tribes can participate.

<u>Authorized Entity</u> (continued)	<ul style="list-style-type: none"> • Limit Storing State to Arizona. • California and Nevada Consuming States only.
	Nevada does not need to be a Storing State, but if conditions change in the future, it may need to seek a change in the rule or State law.
	<ul style="list-style-type: none"> • No meaningful way for tribes to participate. • Recognize tribes as authorized entities.
	Make definition two parts so MWD may be able to participate as a Storing State without the need for express authorization.
<u>Revise several definitions</u>	Revise definitions, as needed, to remove ambiguities and ensure consistency with the Law of the River and make certain to attribute the definitions to the correct source.
<u>Add new definitions</u>	Add definitions for Colorado River Basin and Colorado River system from the compact.
<u>Unused Entitlement</u>	Unnecessary because Decree does not allow an entitlement holder to store unused entitlement and AWBA would not participate in a program that allowed this.
	Delete. California entitlement holder has no right to store unused entitlement; it must go through State's priority system.
<u>Interstate Storage Agreements (ISA's)</u>	Don't cite Article II(B)(6) of Decree as legal authority to enter into ISA's.
	Some of proposed content of ISA should be modified to make it more workable over an extended period.
	Who determines another entity needs to sign the agreement and give an example in section-by-section analysis.
	<ul style="list-style-type: none"> • Rule should clarify Secretary's obligations. • Doesn't state recourse available to Consuming State if Secretary fails to release intentionally created unused apportionment..
	Specify anyone diverting Colorado River water needs a § 5 contract.
	Expressly state in rule that Secretary's approval of the ISA is conditioned on execution of a § 5 contract.
<u>Storable water</u>	Rule should be modified to recognize a Storing State's right to store its own surplus apportionment.
	All water stored by AWBA will remain Arizona water; storage credits will not be accrued or redeemed by a Consuming State.
	Offstream storage of Colorado River water is a consumptive use; in accordance with the Decree definition, once stored it is no longer unused apportionment.
	Questions whether taking water from mainstream for offstream storage can be considered beneficial use when it could be used in that year to grow crops or for M&I use.
	Storing State should not be able to store its surplus for another State.

<u>Storable water</u> (continued)	Inconsistent use of the terms “unused entitlement” and “unused apportionment” leave it unclear about what type of water is eligible for storage.
	The cascading California priority system vests no ownership of unused apportionment with any entitlement holder.
	Agencies that have entered into ISA’s with AWBA should be permitted to store water in Arizona bank that is available from water conservations savings or land following.
	No limits in rule on total amount of water that may be stored or how much may be redeemed in one year .
	Asserts offstream storage should be called conjunctive use and thus distinguished from consumptive use.
	When surplus water is needed to keep MWD’s Colorado River Aqueduct full, Secretary will need to set surplus declarations at a level sufficient to meet both the MWD need for surplus and surplus for offstream storage; otherwise, conflicts will arise over whether direct use of surplus has priority over storage for later use.
	Concerned that an increase in the amount of surplus diversions during “surplus” years could have long-term cumulative affects on reservoir levels in Lakes Mead and Powell.
<u>Approval by the Secretary</u>	No limits on issues the Secretary may consider when examining whether to approve an ISA.
	DOI should approve entire State programs and do 5-year program performance reviews instead of approving each agreement..
	If storage area includes a portion of aquifers underlying tribal lands, must be a process to monitor what water is tribal v. non-tribal water and provide for mitigation of the costs to monitor this.
	It would be inappropriate leverage the approval of an ISA by linking it to resolution of unrelated issues.
	Secretary should be able to find that other water users will not be injured and deliveries to PPR holders are protected.
	Upper Basin must not lose any yield or take increased risks because of increased equalization releases from Lake Powell.
	Secretary needs to consider how to meet demands for delivery of stored water if there are multiple Insterstate Storage Agreements.
	There is no indication as to how factors will be considered in the overall decision.
	The rule needs to state a firm commitment by the Secretary that Colorado River water will be available for diversion in the Consuming State by the authorized entity in the withdrawal year.
	Reasons Secretary would not approve an ISA are not clearly stated.
	Indemnification should protect U.S. from claims arising out of actions of other parties.

<p><u>Approval by the Secretary</u> (continued)</p>	<p>Rule should set forth specific requirements that must be met for the Secretary to approve ISA's.</p>
<p><u>Accounting for stored water</u></p>	<p>Clarify the sequence of events that will occur before water is delivered to the Consuming State. (Different views).</p>
<p><u>Intentionally created unused apportionment (forbearance)</u></p>	<p>Water made available for use by authorized entity in the Consuming State because Storing State uses water that it stored in accordance with an ISA and decreases its diversions and consumptive use of Colorado River water.</p> <p>Delete terms "storage credit" and "redeemed" and refer to intentionally created unused apportionment.</p> <p>No Arizona entity has the authority to agree to forbear from use of the State's full apportionment of Colorado River water unless specifically authorized to do so by the State legislature.</p> <p>Intentionally created unused apportionment should be created only by the recovery and use of previously stored water pursuant to an ISA. (Discuss in preamble)</p> <ul style="list-style-type: none"> • The right to forbear use of water and release it for use in another State must rest with the entitlement holder. • Forbearance agreements under which the Tribe would voluntary make verifiable reductions in diversions should be recognized. • State should not be able to use water to which a Tribe forbears using to develop intentionally created unused apportionment <p>Believes the rule should be broad enough to provide more than one method of creating unused apportionment.</p> <ul style="list-style-type: none"> • Rule will usurp Secretary's discretion to make annual determinations under Article II(B)(6) of the Decree. • Rule doesn't address competing demands for water under multiple ISA's. <p>Rule should provide that any mechanism used is consistent with the Decree and applicable State and Federal law, and is verifiable.</p> <p>Intentionally created unused apportionment directed to a Consuming State should pass through the State priority system.</p> <p>Agrees with Arizona that only previously stored water be used to create unused apportionment, but wants Secretary to consider revising rule in future if California becomes a Storing State.</p> <p>Arizona's recovery of water from storage may pose problems; because some recharge basins have no pumps or need new pumps installed; water may be pumped from aquifers not being recharged.</p> <p>All unused or undeveloped tribal water should be considered to be intentionally created unused apportionment as Federal government has failed to assist tribes in developing their resources.</p> <p>Concept is not well defined and is not understandable</p>

<u>Verification</u>	<p>Clarify the sequence of events that will occur before water is delivered to the Consuming State. (Different views).</p> <p>Need to strengthen verification and certification of reporting and accounting for stored water.</p> <p>Specify procedure for verification.</p> <p>Rule needs provisions requiring independent verification.</p>
<u>Directing unused apportionment</u>	<p>Believes it unfair that Nevada could store its apportionment in Arizona for future use while immediate demands for consumptive use in California would go unmet.</p> <p>Rule needs contractual commitment by the Secretary to release intentionally created unused apportionment to the authorized entity in the Consuming State.</p> <p>Questions Secretary's authority to reserve right to use intentionally created unused apportionment for a specific entity.</p>
<u>Dispute resolution</u>	<p>Rule needs to provide a process to appeal Regional Director's decisions within the Department of the Interior.</p>
<u>Reporting and accounting</u>	<ul style="list-style-type: none"> • Reporting date should be made more flexible. • Only the authorized entity in the Storing State need report..
<u>Water quality</u>	<p>Disclaimer in § 413.5 indicates negative impacts of offstream storage are not clear, such as risk of picking up contaminants like selenium arsenic, or salts.</p> <p>Add a paragraph to acknowledge that the Colorado River Salinity Control Program currently in place provides the means to offset any increase in salinity due to the proposed rule.</p> <p>No analysis of water quality in draft EA; what are affects from rule?</p>
<u>Environmental concerns</u>	<p>Concerned about water quality issues if water is stored in an aquifer used by a tribe.</p> <p>EA should include a section that addresses power impacts.</p> <ul style="list-style-type: none"> • More efficient use means less water is available for environmental uses or to restore parts of the Colorado River system. • Reclamation should complete a full EIS for the rule and river operations that includes a broader range of alternatives. • Rule will induce growth in Las Vegas. <ul style="list-style-type: none"> • Reclamation should consider preparing an EIS to do a regional evaluation of environmental implications of the rule. • Reduces water available for non-consumptive uses, such as instream flows and habitat enhancement. <ul style="list-style-type: none"> • May possibly affect streamflows & reservation evaluations. • May impact fish & wildlife resources. • Benefit-cost analysis should describe what would occur under a sustained drought scenario.

<u>Environmental concerns</u> (continued)	<ul style="list-style-type: none"> • Wants explanation for what a “minor” reduction in the quantity of surplus water available for delivery to Mexico means. • Concerned storage program could impact quantity or quality of treaty obligations to Mexico.
	<p>Narrowing scope of rule to apply only to offstream storage by AWBA would reduce possible NEPA challenges due to concern about groundwater storage in California.</p>
	<p>Need explanation of statement that offstream storage credits could be developed between California and Nevada without the rule.</p>
	<p>Relying on a case-by-case consultation with F&WS is a violation of NEPA and prevents a cumulative analysis.</p>
	<ul style="list-style-type: none"> • Efficiency and re-operation of the river may allow water users to earmark water for environmental uses. • Banking would increase uncertainty during drought years. • Could water be stored in tributaries and constitute a backdoor attempt to allow water wheeling.
<u>Regulatory Flexibility Act</u>	<p>Asserts rule will have significant, disproportionate, economic impact on tribes.</p>
<u>Takings</u>	<p>It is stated the rule is not a taking; discuss whether the Secretary can reject a proposed ISA if he cannot restrict private property rights.</p>
	<p>States’ use of tribes’ unused water may interfere with their property rights and constitute a taking.</p>

Source of Comment:

1. ACBCI is Agua Caliente Band of Cahuilla Indians, March 30, 1998.
2. AWWA is American Water Works Association, March 18, 1998.
3. ADWR is Arizona Department of Water Resources, April 1, 1998, and April 2, 1998.
4. AGFD is Arizona Game and Fish Department, April 3, 1998.
5. APA is Arizona Power Authority, April 3, 1998.
6. AWBA is Arizona Water Banking Authority, April 1, 1998.
7. BIA is Bureau of Indian Affairs (Riverside, California), April 3, 1998.
8. CFBF is California Farm Bureau Federation, April 2, 1998.
9. CAPA is Central Arizona Project Association, April 3, 1998.
10. CAWCD is Central Arizona Water Conservation District, April 3, 1998.
11. Chemehuevi is Chemehuevi Indian Tribe, April 3, 1998.
12. Cibola is Cibola Valley Irrigation and Drainage District, April 3, 1998.
13. CVWD is Coachella Valley Water District, April 2, 1998.
14. Colorado is Colorado Department of Natural Resources, April 2, 1998.
15. CRB is Colorado River Board of California, April 3, 1998.
16. CRC is Colorado River Commission of Nevada, April 3, 1998.
17. CRIT is Colorado River Indian Tribes, March 25, 1998.
18. Cordua is Ms Jennifer Cordua, April 2, 1998.
19. Defenders is Defenders of Wildlife, February 19, 1998.
20. EPA is Environmental Protection Agency, April 1, 1998.
21. F&WS-Phoenix is Fish and Wildlife Service (Phoenix Office), April 3, 1998.
22. F&WS-Reno is Fish and Wildlife Service (Reno Office), March 30, 1998.
23. FMIT is Fort Mojave Indian Tribe, April 3, 1998.
24. Hurley is Mr. Cliff Hurley, March 2, 1998, and April 2, 1998.
25. IID is Imperial Irrigation District, April 3, 1998.
26. IBWC is International Boundary and Water Commission, March 2, 1998.
27. Jicarilla is Jicarilla Apache Tribe, April 2, 1998.
28. LADWP is Los Angeles Department of Water and Power, April 3, 1998.
29. MWD is Metropolitan Water District, April 3, 1998.
30. Morongo is Morongo Band of Mission Indians, March 27, 1998.
31. New Mexico is New Mexico Interstate Stream Commission, March 19, 1998.
32. NPS is National Park Service, March 17, 1998.
33. Navajo is Navajo Nation, April 2, 1998.
34. NSE/NDWR is Nevada Division of Water Resources and State Engineer, March 20, 1998.
35. Ohler is Ms. Bobbie Ohler, February 22, 1998.
36. Quechan is Quechan Indian Tribe, April 3, 1998.
37. Scottsdale is City of Scottsdale, Arizona, April 3, 1998.
38. SDCWA is San Diego County Water Authority, April 3, 1998.
39. Sierra-SRCC is Sierra Club Southwest Regional Conservation Committee, April 3, 1998.
40. Sierra-Toiyabe is Sierra Club (Toiyabe Chapter), March 24, 1998.
41. Southwest is Southwest Center for Biological Diversity, April 3, 1998.
42. Tohono is Tohono O'odham Nation, April 1, 1998.
43. UCRC is Upper Colorado River Commission, April 3, 1998.
44. Western is Western Area Power Administration, April 3, 1998.
45. Wyoming is Wyoming State Engineer's Office, March 25, 1998.
46. YCWUA is Yuma County Water Users' Association, March 3, 1998.

Summary Sheet
Comments on Draft Programmatic Environmental Assessment for
 Proposed Rule for Offstream Storage of Colorado River Water
 62 FR 68491 et seq., dated December 31, 1997 (43 CFR Part 414)

Concern	Comment
<u>Scope of environmental compliance</u>	Description of proposed interstate transactions is overly broad and the EA undertakes an assessment broader than necessary.
	Believes narrowing rule's scope to provide for Arizona to be the only Storing State will eliminate much of the controversy for NEPA compliance.
	Supports conclusion that a more detailed environmental compliance is not appropriate at this time as its is too speculative to be a meaningful analysis.
	Reclamation must produce a full EIS on the entire operation of the Colorado River.
	Consider preparing an EIS that provides an in-depth regional evaluation of environmental implications.
	<ul style="list-style-type: none"> • Rule applies to broader transactions than those proposed between Arizona and Nevada but EA does not examine those other proposed actions. (The whole point of DPEA)! • EA must examine full scope of effects of the action.
	Agrees that a programmatic EA is appropriate.
<u>Discretion</u>	<ul style="list-style-type: none"> • Clarify how rule might limit management options to be considered by MSCP. • Clarify what discretion the Secretary has in providing water for habitat enhancement and how rule affects the discretion.
	<ul style="list-style-type: none"> • Concerned the effects of implementing the proposed rule on Secretary's discretion have not been evaluated.
<u>State-Federal relationship</u>	<ul style="list-style-type: none"> • Since rule relies heavily on Arizona law, discuss how changes to the law would affect the rule. • Would other states have to pass laws similar to Arizona's to be able to participate?
	The rule alters the distribution of power and responsibilities among various levels of government by allowing Nevada to direct the use of unused apportionment for storage in Arizona.
	Arizona law, not the rule, limits the amount of offstream storage that may be used in any year.
	Rule needs to address whether CAWCD will be permitted to deliver recovered groundwater to the Tohono nation in lieu of Colorado River water.

<u>Consultations</u>	<p>Fish and Wildlife Coordination Act requires broader consultation than described, including consultation with State wildlife agencies on equal footing with F&WS (Pg 16).</p> <p>Unable to determine if Reclamation's consultations with F&WS will include the issuance of a Biological Opinion.</p> <p>Department and Reclamation violated their trust responsibility by not consulting with the tribes or BIA.</p> <p>Relying solely on a case-by-case consultation with F&WS is a violation of NEPA and prevents a cumulative analysis to occur.</p>
<u>Compliance for existing documents</u>	<p>It is not clear how some of the specific consultations listed in Table 15 are related to the proposed action or germane to Section 7 consultations for the proposed action (Pg 15).</p> <ul style="list-style-type: none"> • Prior consultation documents for LCR operations are not appropriate to adopt as a BA for this action. • MSCP has not produced or accomplished anything that can obviate the need for formal consultations under the ESA. <p>Concerned that the EA relies almost entirely on environmental evaluations prepared for other actions completed in 1970's and 1980's before serious consideration given interstate water banking or conjunctive use.</p> <ul style="list-style-type: none"> • Should discuss previous water transactions and how the Secretary had authority to approve them without the rule. • Explain how Nevada developed its existing Arizona credits. <p>Compliance for past actions does not preclude analysis of impacts from the rule itself.</p>
<u>Compliance for Interstate Storage Agreements (ISA's)</u>	<ul style="list-style-type: none"> • Believes no additional compliance is necessary for diversions from Lake Mead and specific compliance for an ISA will be insignificant. • Any further compliance should not link to specific ISA. <p>Reclamation has a responsibility to provide some estimate now about what the expected impacts will be under specific ISA's.</p>
<u>Banking options</u>	<p>Discuss possible construction of new underground storage areas by a Lower Division State entity. (Pg 12, para 1).</p> <ul style="list-style-type: none"> • Statement that no California expressed intent to participate fails to note the demonstration project for underground storage in Arizona in which MWD participated. • Explain basis for statement that offstream storage must occur where there is adequate capacity to store the water without developing new storage or delivery facilities. <p>Regarding discussion of southern California new storage facilities, no discussion was made about use of existing facilities where capacity may exist.</p> <ul style="list-style-type: none"> • Banking would increase uncertainty during drought years. • Could water be stored in tributaries and constitute a backdoor attempt to allow water wheeling.

<u>Banking options</u> (continued)	Need more discussion of indirect and cumulative effects of the rule on the construction of new storage facilities.
<u>Alternatives</u>	Banking in Lake Mead is illegal and should not be listed as an alternative to the proposed rule.
	Not clear how potential effects to listed species or designated critical habitat from the proposed action were addressed by BO for Cap delivery, BO for Colorado River O&M, MSCP, or other compliance documents listed in Appendix A (Pg 16).
	Range of listed alternatives is too limited.
	Describe how California and Nevada can develop offstream storage credits without the proposed rule.
<u>Growth inducement</u>	<ul style="list-style-type: none"> • Growth accommodating or growth inducing impacts need analysis and disclosure. • No discussion of potential impacts of constructing new infrastructure for water storage, treatment, or delivery.
	Correct the statement on page 9, last paragraph that Nevada will continue to divert its water through existing facilities; need to recognize the additional facilities being installed to allow higher seasonal diversions.
	Discuss growth inducement impacts in Las Vegas.
<u>Instream flows; habitat enhancement</u>	<ul style="list-style-type: none"> • Not clear whether actions that result in movement of water fall within current and projected routine operation criteria. • Not clear that permissive nature of rule would not change volume of water delivered below Davis Dam. (Pg 17). • Concerned changes in diversion for Colorado River water will affect backwater and wetland habitats along river.
	Storing surplus water offstream may reduce amount of water available for non-consumptive uses along the river.
<u>Endangered species</u>	Discuss probable negative impacts to endangered species.
<u>Fish and wildlife resources</u>	<ul style="list-style-type: none"> • Less surplus will be available to sustain native fish and to enhance wildlife. • DPEA does not address impacts that changes in points of diversion have on the river downstream from Lake Mead.
<u>Flows to the Gulf</u>	Amount of water that flows through to the Gulf of California will be reduced or eliminated, leaving little or no water for planned ecological restoration.
	The draft PEA relies on old environmental evaluations done before interstate banking or conjunctive use were considered.
<u>Third party rights</u>	<ul style="list-style-type: none"> • Explain who the third parties are and discuss whether the rule supersedes their rights. • Discuss how the proposed rule would reduce the amount of surplus water available to third parties.

<p><u>Groundwater issues</u></p>	<p>Concerned recharge of lower quality Colorado River water into Coachella Valley will degrade quality of groundwater.</p> <ul style="list-style-type: none"> • Storage may produce negative impacts to tribal resources but this is not evaluated in EA. • No discussion of cost of monitoring storage to distinguish tribal from non-tribal water in areas where storage area includes portions of aquifers lying under trust lands.. <ul style="list-style-type: none"> • Clarify how proposal fits within regulatory framework for groundwater protection in each State. • Reclamations’s statement about EPA’s role in water quality issues may be misleading. <p>Explain how irrigation districts are considered to be recharge facilities.</p> <p>Net loss in ground water due to indirect storage is a significant indirect effect of the proposed rule which should be analyzed.</p> <ul style="list-style-type: none"> • AWBA build credits through the banking program will not be subject to the limitations the State imposed by its Arizona Groundwater Management Act. • Need to discuss effect of storage on quality of groundwater.
<p><u>Use of intentionally created unused apportionment during shortage year</u></p>	<p>Rule misrepresents Arizona Law. In a shortage year, Arizona has discretion as to whether or not to make unused apportionment available to another State.</p> <p>Explain the hydrologic conditions that determine a shortage year and who makes the determination.</p> <p>Reclamation should allow Nevada to enter into an ISA only if Nevada has reserves for drought years.</p>
<p><u>River operations</u></p>	<ul style="list-style-type: none"> • Should analyze duration and volume of changes in amounts diverted at various points, i.e., Lake Mead v. Lake Havasu. • Discuss diversion and delivery facilities at Laughlin, NV. • Indicate whether preferred alternative will allow lower streamflows in some river reaches v. present conditions. <ul style="list-style-type: none"> • Analyze the possible affects on a state’s apportionment in surplus year. • Discuss long-term cumulative effects on reservoir levels in Lakes Mead and Powell, instream flows, and the frequency of spills from Glen Canyon. <p>Discuss how change in river operations will impact the natural environment along the river and in the delta.</p> <ul style="list-style-type: none"> • Efficiency and re-operation of the river may allow water users to earmark water for environmental uses. • Analysis should be reworked to include CRSS analysis of flows in the river.

<u>Indian trust resources</u>	EA does not evaluate consequences of potential actions on Indian trust resources.
	Discuss how tribes receive any implied benefits when they can not participate in storage under the proposed rule.
	<ul style="list-style-type: none"> • DPEA does not discuss the impacts on the mainstem tribes' water rights. • Explain why the proposed rule does not compromise the Department's responsibilities toward the tribes. • Explain how the rule will lead to benefits for the tribes.
	AWBA right to store banked CAP water and pump it outside the strictures of State law has serious environmental effects and significant effects on Indian trust assets.
<u>Economic impacts</u>	Does not address environmental justice concerns of minority (Tribal) and low-income (near Mexican border) populations.
	The actions under the rule could ultimately have the effect of increasing MWD's water rates if less unused apportionment is made available to MWD.
<u>Power impacts</u>	EA needs to be expanded to assess power generation and revenue creation impacts.
<u>Deliveries to Mexico</u>	Explain what is meant by a minor reduction in the delivery of surplus water to Mexico over the long term.
	No analysis of water quality in the draft EA and the affect of banking on the salinity of water deliveries to Mexico.

Source of Comment:

1. ACBCI is Agua Caliente Band of Cahuilla Indians, March 30, 1998.
2. ADWR is Arizona Department of Water Resources, April 2, 1998.
3. AGFD is Arizona Game and Fish Department, April 3, 1998.
4. BIA is Bureau of Indian Affairs (Riverside, California), April 3, 1998.
5. CAPA is Central Arizona Project Association, April 3, 1998.
6. CRC/SNWA is Colorado River Commission of Nevada/Southern Nevada Water Authority , April 3, 1998
7. Defenders is Defenders of Wildlife, February 19, 1998.
8. EPA is Environmental Protection Agency, April 1, 1998.
9. F&WS-Phoenix is Fish and Wildlife Service (Phoenix Office), April 3, 1998.
10. F&WS-Reno is Fish and Wildlife Service (Reno Office), March 30, 1998.
11. FMIT is Fort Mojave Indian Tribe, April 3, 1998.
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13. MWD is Metropolitan Water District, April 3, 1998.
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22. Southwest is Southwest Center for Biological Diversity, April 3, 1998.
23. Tohono is Tohono O'odham Nation, April 1, 1998.
24. UCRC is Upper Colorado River Commission, April 3, 1998.
25. Western is Western Area Power Administration, April 3, 1998.