

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, NOVEMBER 18, 1998

ARIZONA DEPARTMENT OF WATER RESOURCES

PLEASE PRINT

	NAME	REPRESENTING
1	G. L. Edwards	CRC - NV
2	Susan Selby	SNWA - NV
3	George Campbell	CWA
4	J Cummings	AMA
5	Gary Carpenter	Town of Gilbert
6	Doug Barlett	Dames & Moore
7	Mark Myers	Metro Water - Tucson
8	JULIA SHEPHERD	SRP
9	Richard Siegel	SRP
10	Harold Goodman	City of Glendale
11	Kurt Fritsch	CRC - NV
12	Chuck Cullom	B-E
13	Alan Forrest	CWC of Green Valley
14	Tom Harbour	CAWCI
15	Marcia Unell	HOR staff
16	Bobbie Bolt	Arizona Farm Bureau
17	David M. Johnson	USBR
18	Dennis Rele	Tucson
19	Dan Stein	HOR STAFF
20	Jan Laney	ASLD
21	Bill Allen	Gdyr.
22	LINDA JAMES % ROBT. LYNCH	FEDA
23	Bob McLan	AMUSA
24	Rock Cramer	MUNCOO
25	PAUL OPME	CAIDD / MSDON
26	Stephanie Gerlach	Stantec Consulting, Inc.
27	Bill Sullivan	Monty & Curtis
28	Doug E. Nelson	ARWA
29	Harry Ruzgerian	MWOSC

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Web Site: www.awba.state.az.us

FINAL AGENDA
Wednesday, November 18, 1998
***10:00 a.m.**

Arizona Department of Water Resources
Third floor conference room

- I. Welcome/Opening Remarks
- II. Adoption of Minutes of September 16 and October 21 Meetings
- III. Discussion of the 1998 Plan of Operation and Staff Activities
- IV. Draft 1999 Annual Plan of Operation
- V. Approval of Agreements
- VI. Discussion of Policy Paper Outlining Issues Affecting Recharge Outside the AMA
- VII. Interstate Issues
- VIII. Study Commission
- IX. Call to the Public

Future Meeting Dates:

Wednesday, December 16 1998

Wednesday, January 20, 1999

*** Please note the time schedule change for the current AWBA meeting.**

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. Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes

September 16, 1998
Arizona Department of Water Resources



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

EX OFFICIO MEMBERS
Senator Pat Conner
Rep. Gail Griffin

Welcome / Opening Remarks

Chairman Pearson opened the Arizona Water Banking Authority (AWBA) meeting. All members of the Authority were present except Representative Gail Griffin.

Adoption of Minutes of August 19 Minutes

The August 19 minutes were adopted as submitted.

Discussion of the 1998 Annual Plan of Operation and Staff Activities

Tim Henley, Manager of the AWBA, discussed operation of the AWBA and monthly water deliveries for August. Mr. Henley explained that August deliveries were low (around 27,800 af) and reiterated his comments from last month's meeting that a combination of wet weather and CAP pool water issues make it unlikely that the AWBA will meet its recharge goals for 1998. At this time the AWBA has recharged about 140,000 af of water. The AWBA will probably recharge a total of 250,000 acre feet of water in 1998.

Other Issues

Kim Kunasek of the AWBA described the progress of the CAWCD/USBR lawsuit. The first phase of the trial (contract interpretation) is complete, and both parties are awaiting disposition of this first phase before the trial proceeds to the next phase. Judge Carroll is working on the ruling at this time, and an order should be forthcoming soon.

The Upper Santa Cruz Water Users Groups completed its feasibility study in August. The USCWUG was formed to explore the feasibility of augmenting existing groundwater supplies with CAP water in the Sahuarita-Green Valley area. The USCWUG consists of representatives of water users, government agencies, and other stakeholders in the area. The project generally identified alternatives and costs for delivering CAP water to potential users. The group conducted preliminary investigations, performed route studies and conceptual designs, performed preliminary design of optimal alternatives, performed financial feasibility analyses of optimal routes, and prepared the final report. It is available if anyone would like to review it.

Mr. Henley stated that by the end of September, the CAP requires their customers to submit their water requirements to them. Those requests will be discussed with the AWBA to determine how much capacity will be available to the AWBA. This process will begin in October.

Approval of the Draft Tucson Facilities Plan

Mr. Henley stated that some changes from last month's meeting include expanded comments on the ranking of certain facilities based on the degree to which they can achieve the AWBA's goals. Another chart contains refined criteria for ranking each facility and the goals the facility can achieve as either excellent, good, minimal, or not likely.

Mr. Henley explained that certain funds can only be used for certain purposes, which builds in an institutional limit on recharge spending in Tucson. Based on the direct facilities and some of the cost to recharge in Tucson, the total comes to approximately \$60.00 per acre-foot. With the four-cent tax, the AWBA could probably recharge approximately 20,000 af annually for drought protection. The four-cent tax is used to firm the M&I subcontractors supplies for the Tucson area. Mr. Henley also explained that Tucson needs about 700,000 - 750,000 af (30,000 - 35,000 af stored annually for the next 20 years) of water to protect against shortages on the Colorado River for the next 100 years. Because the four-cent tax is not sufficient to meet this need, the AWBA will need to spend general fund monies in the Tucson AMA.

The withdrawal fees are to help meet the water management goals of the area as defined by the Arizona Department of Water Resources. General funds can also be utilized to assist in Indian settlements.

Tom Griffin, Vice-Chairman, believes the AWBA should consider earmarking the general fund monies in the future. Mr. Griffin is concerned that without direction regarding proportion of funds that may be used for specific purposes, some potential recipients of general fund monies could be shortchanged. Mr. Henley responded that the Study Commission has examined this use indirectly and will make recommendations encompassing this concept in its report to the Legislature in November.

Mr. Henley also mentioned that the AWBA will need to consider different ways of approaching groundwater savings facilities in Tucson to meet its goals.

Mark Myers, member of the Study Commission stated that he is pleased with the changes that the AWBA has made to the facility plan.

The Authority members adopted the Tucson AMA Facility Plan as presented. Mr. Henley stated that the Facility Plan will be available on the AWBA webpage.

Presentation by Vidler Water Company

Dorothy Timian-Palmer, Chief Operating Officer of Vidler Water Company, made a short presentation. Ms. Palmer explained that Vidler has a pilot project permit to store up to 10,000 af of water over two years at its MBT Ranch site and is currently in the process of obtaining a full-scale permit to store 20,000 af annually. Vidler would like the AWBA staff to begin negotiations to store water at MBT Ranch as soon as possible. Vidler will be recharging water as early as October 1998. They anticipate recharging 10 af of water per day.

Mr. Henley commented that the AWBA does not have a storage permit for MBT Ranch at this time. The AWBA will submit a permit application and begin working on a draft agreement shortly. The AWBA staff has concerns about the cost.

Grady Gammage, Jr., Authority member, asked how Vidler Water Company would rate under the AWBA's storage site criteria. Mr. Henley stated that for shortage protection it would possibly be good, as it could provide some drought protection. From a groundwater management standpoint, it would not be rated high, as MBT Ranch is not in an AMA. From an Indian settlement standpoint it would not be rated high, as Indian settlements are generally better if they are closer to the reservations. On an interstate storage standpoint it would be rated excellent, depending on opportunities to recover the water.

Chairman Pearson asked the AWBA staff to prepare a policy paper detailing the implications of storing water outside the AMA and storing water with privately owned companies and addressing recovery issues.

Update on Study Commission Activities

Herb Dishlip updated the AWBA on upcoming activities of the Study Commission. Mr. Dishlip explained that the full report from the Study Commission will be forthcoming in November 1998, and the AWBA intends to recommend legislation to give the AWBA additional powers and duties.

Update on Interstate Discussions

Federal Rule Governing Interstate Water Banking

As of this date, the federal rule governing interstate water banking has not yet been released.

California 4.4 Plan

The financial component of the deal between the San Diego County Water Authority and the Imperial Irrigation District has been finalized. The agreement allows water saved through farm irrigation conservation techniques to be transferred through the MWD canal to San Diego County. This will help California get close to its 4.4 maf allocation, which is has been exceeding by almost 800,000 af annually.

Call to the Public

The next meetings are scheduled for October 21 and November 18. The meeting was adjourned at 11:00 a.m.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes

October 21, 1998
Arizona Department of Water Resources



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

EX OFFICIO MEMBERS
Senator Pat Conner
Rep. Gail Griffin

Welcome / Opening Remarks

Tom Griffin, Vice Chairman, chaired the Arizona Water Banking Authority (AWBA) meeting in Rita Pearson's absence. Tom Griffin and Bill Chase were the only Authority members present for the meeting.

Adoption of Minutes of September 16 Minutes

The Authority did not approve the minutes from the September 16, 1998 AWBA meeting due to lack of a quorum. The September and October minutes will be formally approved at the November meeting.

Discussion of the 1998 Annual Plan of Operation and Staff Activities

Tim Henley, Manager of the AWBA, explained that AWBA September deliveries were low and reiterated his comments from last month's meeting that a combination of wet weather and CAP pool water issues make it unlikely that the AWBA will meet its recharge goals for 1998. The AWBA hopes to have recharged close to 250,000 acre feet of water by the end of 1998.

Other Issues

AWBA staff has prepared a policy paper examining issues surrounding the storage of water outside the AMAs. The paper is still in draft form, and anyone is welcome to comment within the next week or so. There will be a more detailed discussion at the November 18 AWBA meeting.

The AWBA and SRP have negotiated an agreement that would allow for the exchange of CAP water and Salt River Project water when needed. The Exchange Agreement with the SRP is nearly complete. The final draft is ready for approval, but due to the lack of quorum, could not be approved today. The final should be ready for approval at next month's meeting.

Vidler Water Company Offer

Tim Henley discussed a September 25, 1998 letter from Vidler Water Co. offering to store 10,000 acre feet of water for the AWBA at no cost during the two-year pilot phase of the MBT Ranch site. Mr. Henley recommended that the AWBA staff begin negotiating contract language for a storage agreement with Vidler for the 10,000 af two-year pilot period.

Dorothy Timian-Palmer, Chief Operating Officer of Vidler Water Company, updated the Authority on the status of La Paz County's appeal of Vidler's MBT Ranch underground storage facility permit. La Paz County has agreed to withdraw its appeal if Vidler keeps the county informed about issues pertaining to the MBT Ranch site, including monitoring information. Vidler Water Company would also supply La Paz County with the same information regarding the recharge facility that is submitted to ADWR.

Mr. Henley asked Ms. Palmer about the status of the appeal of the application for the MBT Ranch permit. Ms. Palmer stated that La Paz County withdrew its appeal. Ms. Palmer explained that enough data will be collected in the next 90 days so that Vidler can start designing the full-scale project and start discussions with ADWR about the full-scale permitting process.

Mr. Henley stated that the AWBA needs to collect data about how the system will operate and to better evaluate recharge potential. Mr. Henley stated that one important issue is the local impact of recharging the water and who else would be affected and impacted by it. There are other issues of concern; recovery, dealing with a private entity, and the fact that these entities are not in AMAs where the groundwater is actually controlled. Participating at a demonstration level will give the AWBA an opportunity to work through some of the issues of concern.

Recharge Presentations

Three entities made presentations about future potential to do recharge at their currently or nearly complete water storage facilities west of Phoenix.

- Larry Linser, APS-Bouse Wash: presentation by Bookman-Edmonston on direct recharge project near Bouse, Arizona
- John Mihlik, West Maricopa Combine, Inc.: presentation on managed recharge project in the Hassayampa River
- Jim Downing, McMullen Valley Conservation and Drainage District: presentation on recharge at Vicksburg Farms.

Interstate Issues

Mr. Henley stated that the AWBA staff submitted comments on the definition of an “authorized entity” for interstate water banking purposes as published in the most recent Federal Register Notice on interstate water banking (comment period ends Oct. 21). Mr. Henley explained the AWBA’s position on the definition of this term and stated that he expects the proposed rule to go to Congress in the near future.

Mr. Henley stated that the AWBA initially commented that they should remove the idea that the AWBA would need an entitlement to be deemed an authorized entity. There were several comments on that very issue.

Jerry Edwards of the Colorado River Commission of Nevada stated that the Commission would be submitting comments shortly.

1999 Annual Plan of Operation

AWBA staff will begin developing the 1999 Annual Plan of Operation, which involves meeting with current and prospective recharge partners. A draft plan will be presented at the November meeting, and the Plan should be ready for approval in December.

Study Commission

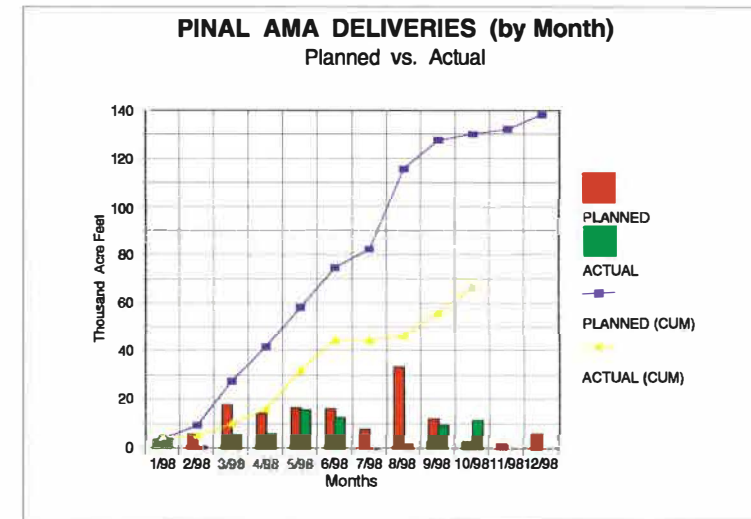
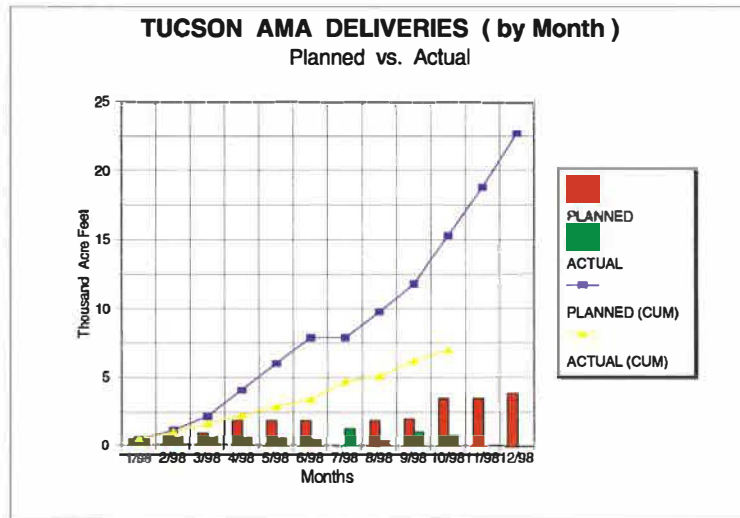
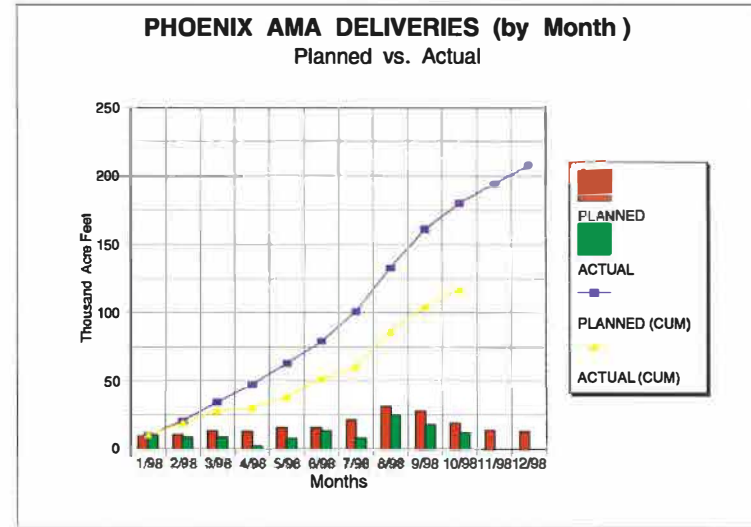
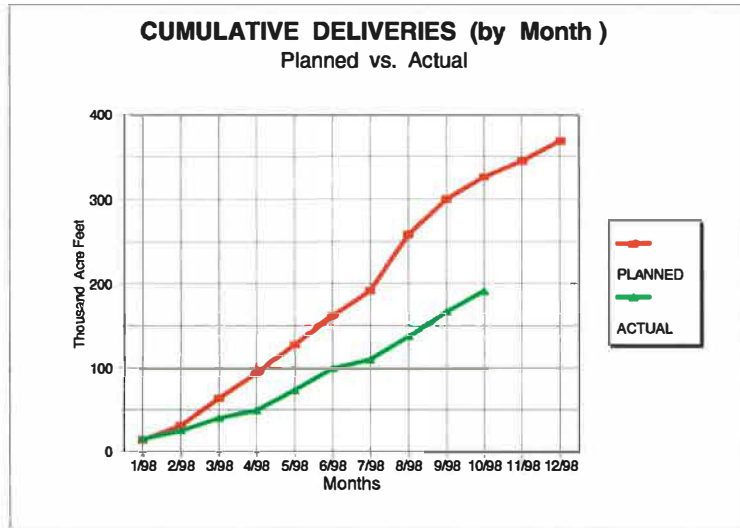
Herb Dishlip, Assistant Director of the ADWR, informed the Authority that the final report of the Water Banking Authority Study Commission will be ready in mid-November. Mid-November is also the deadline to submit draft legislation to the Arizona Legislature to implement some of the recommendations.

The next full Study Commission meeting is scheduled for Friday, November 13.

Call to the Public

The next meetings are scheduled for **November 18** and **December 16**. The meeting was adjourned at 11:20 a.m.

1998 PLAN OF OPERATION



1998 PLAN OF OPERATION BY ENTITY

Actual deliveries updated 16-Nov-98

	jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	total	
Phoenix AMA													
GRUSP	8,032	8,551	6,711	0	5,237	5,904	5,595	6,325	5,910	3,996	2,400	58,661	GRUSP
RWCD	0	0	0	0	0	0	0	0	0	0	0	0	RWCD
NMIDD	2,233	286	0	0	0	4,959	271	12,811	7,390	4,670	2,500	35,120	NMIDD
QCID	0	0	0	0	0	0	0	3,589	3,536	1,782	1,500	10,407	QCID
MWD	0	0	2,373	2,399	2,701	2,604	2,665	2,866	1,748	1,796	1,412	20,564	MWD
CHCID	0	0	0	0	22	0	0	0	0	0	50	72	CHCID
TID	0	0	0	0	0	0	0	0	0	0	0	0	TID
Subtotal	10,265	8,837	9,084	2,399	7,960	13,467	8,531	25,591	18,584	12,244	7,862	124,824	
Pinal AMA													
CAIDD	0	0	0	0	0	0	0	0	323	2,837	529	3,689	CAIDD
MSIDD	2,430	0	0	0	8,792	3,221	0	1,799	5,730	6,708	2,000	30,680	MSIDD
HIDD	1,819	708	5,284	5,905	6,901	9,302	0	0	3,461	1,900	250	<u>35,530</u>	HIDD
Subtotal	4,249	708	5,284	5,905	15,693	12,523	0	1,799	9,514	11,445	2,779	69,899	
Tucson AMA													
Avra Valley	0	0	0	0	0	0	675	374	318	576	900	2,843	Avra Valley
CAVSARP	531	579	576	597	600	537	652	54	57	0	420	4,603	CAVSARP
Pima Mine	0	0	0	0	0	0	0	0	688	259	300	1,247	Pima Mine
Lower Santa Cruz	0	0	0	0	0	0	0	0	0	0	0	0	L. Santa Cruz
Subtotal	531	579	576	597	600	537	1,327	428	1,063	835	1,620	8,693	
TOTAL	15,045	10,124	14,944	8,901	24,253	26,527	9,858	27,818	29,161	24,524	12,261	203,416	

Post-it* Fax Note	7671	Date	11/4	# of pages	5
To	Kathy	From	MJ		
Co./Dept		Co.	CAP		
Phone #		Phone #	869-2333		
Fax #	417-2415	Fax #			

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

6	CENTRAL ARIZONA WATER CONSERVATION)	
7	DISTRICT, a municipal)	CIV 95-625-TUC-WDB (EHC)
8	corporation of the State of)	CIV 95-1720-PHX-EHC
9	Arizona,)	(Consolidated Action)
10	Plaintiff,)	
11	v.)	O R D E R
12	UNITED STATES OF AMERICA, et al.,)	
13	Defendants.)	
14	UNITED STATES OF AMERICA,)	
15	Counterclaimant,)	
16	v.)	
17	CENTRAL ARIZONA WATER CONSERVATION)	
18	DISTRICT,)	
19	Counterdefendant.)	

This action for declaratory and injunctive relief was initiated to resolve a series of disputes arising out of the construction, operation and maintenance of the Central Arizona Project, a 335-mile long, water conveyance system designed to divert an average of 1,500,000 acre-feet of water annually from the Colorado River to central and southern Arizona.

Because of the numerous and complex issues presented, the Court entered a pretrial order providing for trial in six phases.

CONCLUSIONS OF LAW

1
2 This Court has made numerous legal rulings that are set forth
3 above in this Order. The Court summarizes these rulings by making
4 the following conclusions of law.

5 1. The court has subject matter jurisdiction over the
6 claims and counterclaims in this phase under 28 U.S.C. §§ 1331,
7 1345, and 43 U.S.C. § 390uu.

8 2. The repayment ceiling provision of the 1988 Agreement
9 is ambiguous as a matter of law insofar as it could reasonably be
10 interpreted as establishing either a fixed or variable repayment
11 ceiling for Stages One and Two. Article 9.3(e) shows the
12 repayment ceiling as being fixed at \$2.0 billion. Exhibit B,
13 however, includes a repayment ceiling which makes adjustments
14 depending upon whether the GRIC executes a water delivery contract
15 with the Secretary of Interior. The conflict between Article
16 9.3(e) and Exhibit B creates an ambiguity in the 1988 Agreement.

17 3. Under the rule of contra proferentem, the ambiguity
18 created by the conflicting provisions must be strictly construed
19 against the United States, because it drafted both provisions.
20 Applying this rule, the repayment ceiling in the 1988 Agreement is
21 a variable repayment ceiling that would adjust downward if the
22 GRIC subsequently executed a water delivery contract with the
23 Secretary of Interior.

24 4. The preponderance of extrinsic evidence offered at
25 trial shows that CAWCD and the United States intended to create a
26 variable repayment ceiling in the 1988 Agreement that would adjust

1 downward if the GRIC subsequently executed a water delivery
2 contract with the Secretary of Interior.

3 5. The repayment ceiling in the 1988 Agreement was \$1.781
4 billion after the GRIC executed a water delivery contract on
5 October 22, 1992. The adjustment in the repayment ceiling from
6 \$2.0 billion to \$1.781 billion reflects the fact that 173,100
7 acre-feet of water allocated to GRIC was no longer within the
8 repayment obligation of CAWCD.

9 6. The 1988 Agreement required the United States to cease
10 construction if it determined that reimbursable construction costs
11 would exceed the repayment ceiling. The United States breached
12 the 1988 Agreement when it continued to incur construction costs
13 in excess of the \$1.781 billion repayment ceiling in the absence
14 of an amendatory contract.

15 7. The United States' failure to cease construction once
16 it became apparent that reimbursable construction costs were going
17 to exceed the repayment ceiling does not entitle the United States
18 to recover excess reimbursable costs from CAWCD.

19 8. The United States has failed to demonstrate by clear
20 and convincing evidence that CAWCD waived the repayment ceiling
21 provision, or should otherwise be estopped from asserting it in
22 this action.

23 9. The United States' quantum meruit and unjust
24 enrichment claims do not afford a basis for recovery of excess
25 construction costs. Quantum meruit and unjust enrichment are
26 implied-at-law contract theories which do not apply when there is

1 an express contract.

2 10. The United States has failed to demonstrate that its
3 breach of the repayment ceiling provision was excused or that it
4 is otherwise entitled to recover construction costs over the
5 repayment ceiling unless an amendatory contract is executed.

6 11. Article 6.7 of the 1988 Agreement is unambiguous.
7 However, it has no application to the present case, because there
8 has been no claim asserted herein that the appropriations ceiling
9 has been exceeded. The remedy set forth in Article 6.7 applies
10 only to the appropriations ceiling, and is not relevant to a
11 situation, such as the one in this case, where only the repayment
12 ceiling has been exceeded. Accordingly, the United States is not
13 entitled to bar CAWCD from using project facilities in the absence
14 of an amendatory contract.

15 Based upon the above findings of fact and conclusions of law,
16 IT IS ORDERED that, as to the "repayment ceiling issues" in
17 this action, CAWCD is hereby granted the following declaratory and
18 injunctive relief against Defendants:

19 1. The Court declares that Article 9.3(e) and Exhibit B
20 to the 1988 Agreement limits CAWCD's repayment obligation for
21 Stages One and Two to \$1.781 billion unless an amendatory contract
22 is executed providing otherwise.

23 2. The Court declares that Defendants may not invoke
24 Article 6.7 of the 1988 Agreement to prevent CAWCD from utilizing
25 CAP facilities. Defendants are hereby enjoined from barring CAWCD
26 from utilizing CAP facilities.

NOV. 4. 1998 11:43AM CAP ADMIN 602 889 2332 11.017 1.10

1 IT IS FURTHER ORDERED that the United States' counterclaims
2 for declaratory relief as to "repayment ceiling issues" are
3 denied.

4
5 DATED this 3rd day of November, 1998.

6 Earl H. Carroll
7 Earl H. Carroll
8 United States District Judge
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NEWS MAIN ►

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OPINIONS

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Federal judge rules against U.S.

Cuts \$500 million from CAP bill

By Martin Van Der Werf
The Arizona Republic
Nov. 5, 1998

Amid the smoke blowing, gutter sniping and cockfighting on Election Day, Arizonans got a \$500 million gift.

U.S. District Judge Earl Carroll ruled Tuesday that the most Arizona will have to pay for the Central Arizona Project canal is \$1.78 billion. The federal government has been seeking \$2.3 billion.

The effect of the ruling was still unclear Wednesday. It is possible that the property tax now imposed to pay off the construction costs will be reduced. Or it could be continued at its current rate, but eliminated before 2046, when it is set to expire.

"Will we require the whole tax throughout the entire period? Maybe not," said Larry Dozier, deputy general manager of the Central Arizona Water Conservation District, which operates the CAP.

It is also believed that federal attorneys will appeal the ruling.

Property owners in Maricopa, Pima and Pinal counties are paying 14 cents per \$100 of assessed valuation for the canal.

The district also gets income from sales of water and power. In the short run, Dozier said, the court decision will continue to allow the district to subsidize the price of water for agricultural users.

That is important because it encourages farmers to use more water. If Arizona is using most of its allocation of Colorado River water, it leaves California and Nevada with less room to argue that they should be getting the water instead.

The CAP is a 336-mile canal which carries Colorado River water to Phoenix and Tucson.

The district and the federal Bureau of Reclamation have been arguing about Arizona's costs for a decade.

At one point, Bruce Babbitt, the former Arizona governor who is now secretary of the interior, began assessing a fine of \$28,000 a day against Arizona because it was only paying what it believed it owed, rather than paying what the federal government believed was owed.

Dozier said he believes Carroll's ruling will either eliminate the fines or drastically reduce them.

Carroll listened to the two sides present their arguments for five days in August. In his ruling, Carroll said the Bureau of Reclamation never notified the CAWCD that it would be exceeding the \$1.78 billion cost ceiling that both sides agreed to in 1988. Under that agreement, federal authorities were to inform the state of cost overruns. The state would then have had the option of stopping construction.

There are still four more phases to the hearing over CAP issues before Carroll. The next phase will begin Nov. 12. However, the only remaining cost issues could only reduce the price to Arizona more, not increase it.

Martin Van Der Werf can be reached at 444-4421 or at martin.vanderwerf@pni.com via e-mail.
martin.vanderwerf@pni.com

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ARIZONA WATER BANKING AUTHORITY
ANNUAL PLAN OF OPERATION

1999



Rita P. Pearson, Chairman

January 1, 1999

INTRODUCTION

The Arizona Water Banking Authority (AWBA) was created to store Arizona's unused Colorado River water entitlement in western, central and southern Arizona to develop long-term storage credits to: (1) firm existing water supplies for municipal and industrial users during Colorado River shortages or Central Arizona Project (CAP) service interruptions; (2) help meet the water management objectives of the Arizona Groundwater Code; and (3) assist in the settlement of American Indian water rights claims.

The AWBA is required by statute to approve an annual Plan of Operation by January 1 of each year. The Plan of Operation is intended to govern the operations of the AWBA over the course of the entire calendar year. During the course of the year, changing circumstances may present limitations or provide new opportunities not contemplated in the adopted Plan, which could affect the overall delivery projections. In such circumstances, the AWBA may choose to modify its adopted Plan. If such modifications are required, the proposed modifications will be discussed and approved at a public meeting of the AWBA.

The AWBA recognizes that day-to-day adjustments in the normal operations of the CAP or the individual storage facilities caused by maintenance and fluctuations in the weather may affect the actual monthly deliveries made on behalf of the AWBA. However, if the adjustments do not impact the overall annual delivery projections contained in the Plan, those adjustments will not be deemed modifications to the Plan and will be addressed by staff and reported to the AWBA members on an as-needed basis.

1998 PLAN OF OPERATION

In 1998, the AWBA's second full year of operation, the AWBA recharged approximately 220,000 acre feet of Colorado River water, bringing Arizona's total use of Colorado River water close to its normal year entitlement of 2.8 million acre feet (See Figure 1).

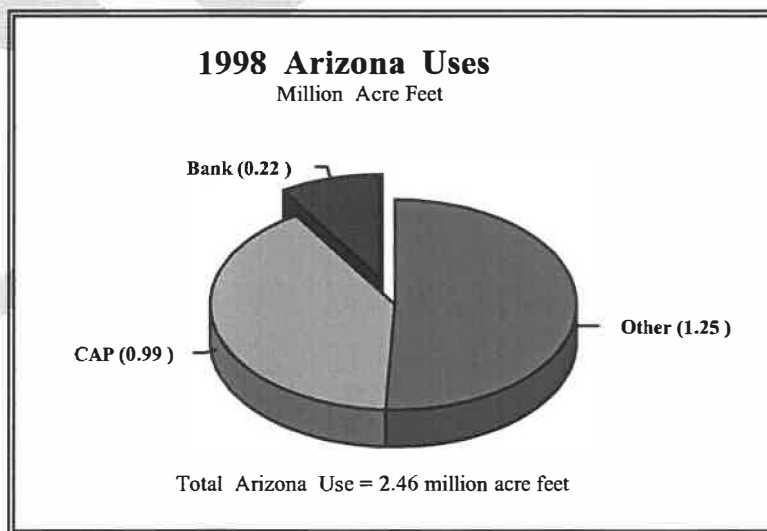


Figure 1

Because the Secretary of the Interior declared that the Colorado River was in surplus in 1998, the increased use by Arizona did not impact the other Lower Basin states' uses. Total estimated use of Colorado River water in the Lower Basin will exceed 7.68 million acre feet in 1998 (see Figure 2).

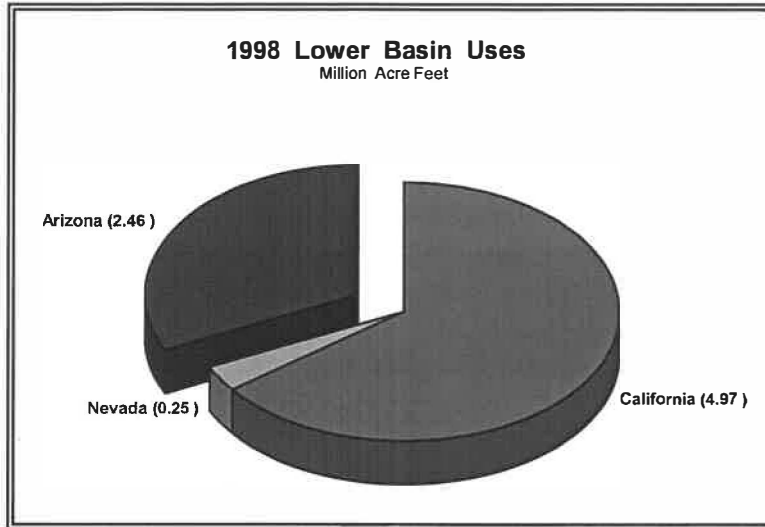


Figure 2

The AWBA recharged water at underground storage facilities (USF) and groundwater savings facilities (GSF) in 1998. Table 1 lists the AWBA's recharge partners for 1998, the amount of water that can be stored under each AWBA water storage permit, and the amount actually recharged by the AWBA at each facility in 1998.

Table 1

AMA	Facility	Type	Permit Capacity	Amount Recharged
Phoenix	GRUSP (SRP)	USF	200,000 af	62,000 af
	Queen Creek ID	GSF	28,000 af	13,000 af
	New Magma IDD	GSF	54,000 af	38,000 af
	MWD	GSF	18,000 af	20,000 af
Pinal	MSIDD	GSF	120,000 af	30,000 af
	CAIDD	GSF	110,000 af	5,000 af
	Hohokam ID	GSF	55,000 af	36,000 af
Tucson	Avra Valley (CAP)	USF	8,000 af	3,000 af
	Pima Mine Road (CAP)	USF	10,000 af	3,000 af
	CAVSARP (Tucson)	USF	10,000 af	5,000 af
Total			613,000 af	215,000 af

Though the 1998 Plan of Operation scheduled approximately 350,000 acre feet of water to be recharged around the state, the amount of water recharged in Arizona was lower in 1998 than expected. The reduced water recharge rate was due primarily to weather conditions. Arizona experienced extremely high rainfall associated with the “El Niño” weather pattern in 1998, which cut back dramatically on the quantity of AWBA water needed by irrigation districts. Most of the AWBA recharge activity involves groundwater savings facilities (farms that are part of irrigation districts), but in 1998 the additional rainfall resulted in decreased or discontinued “in lieu” water orders at these groundwater savings facilities.

1999 PLAN OF OPERATION

When developing the 1999 Plan, the AWBA evaluated four critical factors: (1) the amount of unused water available to the AWBA for delivery, (2) the CAP capacity available to the AWBA for the delivery of unused water, (3) the funds available and the costs required to deliver the unused water, and (4) the capacity available for use by the AWBA at the various recharge facilities.

For water year 1999, the Secretary of the Interior has declared that the Colorado River is in a surplus condition. A surplus declaration means that surplus water would be available to the AWBA as a source of unused water. Therefore, water availability will not be a limiting factor for the AWBA in 1999.

The CAP’s 1999 operating plan accommodates the delivery of approximately 1.5 million acre feet of water. However, the plan delivers approximately 1 million acre feet to its subcontractors, which leaves approximately 500,000 acre feet of capacity available for the AWBA. Based on this available capacity, the CAP’s operations will not be a limiting factor for the AWBA in 1999.

The funding available to the AWBA from its three funding sources (county *ad valorem* property tax revenues, groundwater pumping fees, and general funds) to pay for the delivery of water in 1999 will be approximately \$20 million including the carryover from the previous years. Given the costs associated with the delivery of water and the fact that the GSF operators continue to pay \$21 of that cost when the water is delivered to their facilities, the \$20 million is adequate to fund the Plan and is not a limiting factor in 1999. For more information about the cost of the plan, please refer to the pricing section, *infra*.

To assist in developing the 1999 Plan, each facility operator submitted an annual delivery schedule to CAP. (CAP schedules the AWBA’s deliveries for those GSFs they will be operating.) The CAP staff utilized these schedules to compile an annual schedule for the CAP, including municipal and industrial (M&I) water, water for Indian tribes, incentive recharge water, agricultural pool water, and AWBA water. As discussed previously, this integrated schedule was developed to conform to a 1.5 million acre foot delivery year. Concurrently, the AWBA staff met with the facility operators to discuss their delivery schedules and confirm their continued interest in participating with the AWBA. These discussions confirmed that the availability of substantial permitted recharge

capacity but also that limited capacity is available to the AWBA. Some of the GSF availability was limited by delivery cost, and other facilities were limited by operational issues. Operational constraints or previous commitments to other partners limited the availability of USFs to the AWBA.

Based on its adopted Plan, the AWBA anticipates recharging approximately 320,000 acre feet of Colorado River water in 1999. The Plan was developed utilizing facilities that have already been permitted or are anticipated to be permitted in 1999 and are located in Maricopa, Pinal, Pima and LaPaz Counties. The Plan attempts to optimize, on a monthly basis, the delivery of Colorado River water to meet the AWBA’s objectives. The Plan is flexible, and if additional recharge capacity can be identified and funding remains available, the Plan can be modified in the future to include additional facilities.

Based on projected uses, Arizona’s use of Colorado River water in 1999 will be 2.62 million acre feet (see Figure 3), which will be similar to Arizona’s 1998 use. The overall Lower Basin use is projected to continue at approximately 7.9 million acre feet.

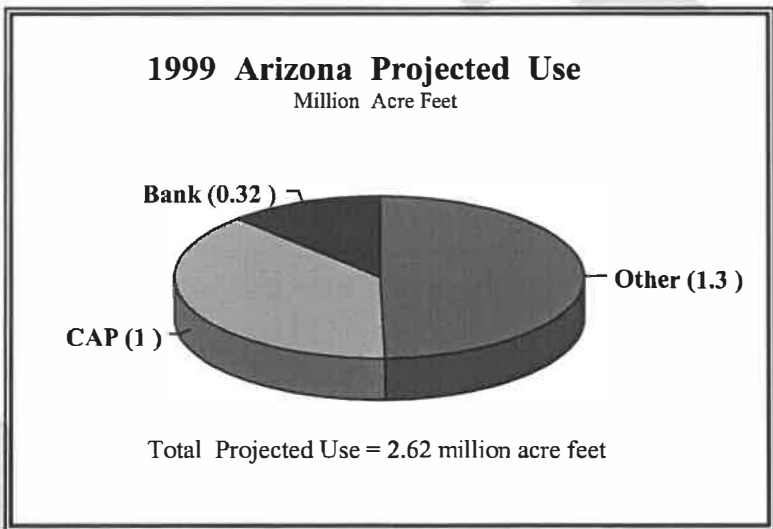


Figure 4

Table 2 shows the AWBA’s 1999 delivery schedule. Line One of this table provides estimates of CAP’s monthly deliveries to its M&I, agricultural, incentive recharge, and Indian customers. These deliveries have a scheduling priority over the AWBA’s deliveries. These estimates do not include deliveries to New Waddell Dam.

Line Two shows the capacity available to the AWBA after CAP makes its priority deliveries and its deliveries to New Waddell Dam. The CAP is capable of delivering approximately 180,000 acre feet of water each month. The AWBA’s capacity is determined by subtracting customer deliveries from the available capacity. The available capacity does not always total 180,000 acre feet/month because of unique situations such as the filling of Lake Pleasant in the winter months,

deliveries to the western portion of the aqueduct, New Waddell Dam releases to the aqueduct in the summer months and scheduled maintenance. During the fall and winter months, the capacity available to AWBA is constrained because the CAP is making deliveries to Lake Pleasant.

Lines Three through Nineteen represent the AWBA's 1999 Plan of Operation. This section identifies the AWBA's partners for 1999 and the amount of water scheduled to be recharged. The second column in this section identifies the AWBA's water storage permit capacities for each facility and the amount of that capacity that is available to the AWBA in 1999. The capacity available does not always equal the storage permit capacity because the storage facility operators may have agreements with other storage partners.

Line Twenty lists the CAP capacity remaining after the AWBA's deliveries are scheduled. The amount in parentheses in the months of July and December represents an over-commitment of capacity in those months. CAP has shown in the past that there is some operational flexibility to help meet deliveries in those months. The AWBA staff will work closely with the CAP staff and our partners in an attempt to meet the scheduled deliveries during those months.

Table 2
ARIZONA WATER BANKING AUTHORITY
Water Delivery Schedule
Calendar Year 1999
(ACRE-FEET)

			January	February	March	April	May	June	July	August	September	October	November	December	Total		
1	Estimated Total CAP Deliveries + Losses : (M&I, Indian, Ag Pools 1 & 2, Incentive Recharge)		35,000	35,000	78,000	108,000	108,000	144,000	175,000	137,000	65,000	45,000	30,000	28,000	988,000		
2	Available Excess CAP Capacity for AWBA :		45,000	45,000	89,000	56,000	57,000	43,000	20,000	56,000	45,000	31,000	25,000	25,000	537,000		
A W B A - Recharge Sites :			Permitted Capacity (AF)	Requested Capacity (AF)													
LAPAZ :																	
3	Direct >	VIDLER WATER	10,000	5,000	410	410	410	410	410	410	410	410	410	410	410	4,920	
4		APS										500	500	500	500	2,000	
PHOENIX AMA:																	
5	Direct >	GRUSP	200,000	90,000	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	90,000	
6		AGUA FRIA		10,000	0	0	0	0	0	0	0	0	0	5,000	5,000	10,000	
Indirect >																	
7		MWD	30,000	20,000	0	588	1,765	2,941	2,941	2,941	2,941	1,765	1,765	0	0	20,588	
8		NEW MAGMA	52,000	50,000	2,000	2,000	3,200	2,500	3,000	3,500	3,700	9,700	9,600	3,500	2,500	47,200	
9		QUEEN CREEK	28,000	20,000	0	0	0	0	0	3,946	7,270	3,720	1,600	1,050	2,460	20,046	
10		TONOPAH ID	15,000	5,000	0	0	0	0	0	0	0	0	0	2,000	1,000	3,000	
PINAL AMA :																	
Indirect >																	
11		CAIDD	110,000	50,000	0	0	0	0	0	0	4,325	3,428	3,080	2,233	1,934	15,000	
12		HOHOKAM	55,000	50,000	0	0	4,581	6,000	7,500	4,800	0	6,600	2,800	1,500	100	1,200	35,081
13		MSIDD	120,000	50,000	730	2,600	8,530	5,300	7,800	9,770	5,100	1,140	3,430	520	1,040	2,730	48,690
TUCSON AMA																	
Direct >																	
14		AVRA VALLEY	11,000	7,000	0	0	0	750	750	750	750	750	400	750	750	6,400	
15		CAVSARP	15,000	7,500	600	600	600	600	600	600	700	700	700	600	600	7,500	
16		PIMA MINE RD	10,000	5,000	1,200	1,200	500	0	0	0	0	0	0	0	500	3,400	
17		LOWER SANTA CRUZ		10,000	0	0	0	0	0	0	0	0	0	500	2,000	2,500	
18		KAI FARMS		3,000												3,000	
19	TOTAL (Direct + Indirect) :		12,440	14,898	27,086	26,001	30,501	30,271	25,047	41,336	34,603	21,375	24,183	28,584	319,325		
20	Remaining CAP Capacity :		32,560	30,102	61,914	29,999	26,499	12,729	(5,047)	14,664	10,397	9,625	817	(3,584)	217,675		

The values in Table 2 reflect the delivery amounts at the CAP turnout and do not account for losses incurred between the turnout and the actual point of use. Those losses must be calculated and deducted from the deliveries to determine the actual credits earned by the AWBA.

No recovery is anticipated in 1999. The AWBA intends to develop recovery concepts during 1999 to ensure that the benefit of the credits developed will be realized by the area in which the funds are collected.

NEW PARTNERS

In 1999, the Annual Operating Plan anticipates recharging water at several new USFs. For the first time, the Plan includes recharging water at privately owned USFs and at facilities located outside of any AMA. The AWBA staff has held in-depth meetings with these prospective recharge partners over the past year. The prospective recharge partners have also made detailed presentations before the Authority at its public meetings, where Authority members and members of the public had the opportunity to ask questions of the project representatives and to review materials, maps, and financial information.

In addition to those new partners specifically included in the Plan, there is potential for additional new partners in 1999 especially in western Maricopa and LaPaz Counties, one example is McMullen Valley Water Conservation and Drainage District. The AWBA's staff will continue meet and discuss the potential for inclusion in AWBA's 1999 recharge activities with anyone interested in becoming the AWBA's partner.

The AWBA staff has prepared an issue paper summarizing some of the implications of recharging water outside the AMA and ways that any potential problems can be addressed. This paper was distributed and discussed at the AWBA's November 1998 meeting.

The Secretary of the Interior has not promulgated rules governing the interstate banking of Colorado River water. Until the Secretary promulgates such rules and the Director of the Department of Water Resources deems then acceptable no interstate banking can be included in the Plan of Operations. If those actions occur and the AWBA determines that interstate banking is appropriate during 1999, the AWBA will amend its Plan of Operations after providing adequate public notice.

PRICING

For 1999, the CAWCD Board adopted a rate for the delivery of the AWBA's water of the pumping energy plus a \$5 contribution to the fixed operation and maintenance cost of the CAP system for a total cost of \$43 per acre foot. The AWBA's policy of recovering \$21 from its in-lieu partners will continue for 1999.

Table 3 reflects the water delivery rate the CAP will charge the AWBA, the rate the GSF operators will pay for use of the AWBA's water, and the various rates the AWBA will be charged to utilize the different USFs.

Table 3

1999 Water Rates	
CAP's delivery rate to AWBA	\$43 per acre foot
GSF operator portion of delivery rate	\$21 per acre foot ¹
Unredground Storage Facility rate paid by AWBA	
GRUSP (SRP)	\$14 per acre foot
Agua Fria (CAP)	\$10 per acre foot (estimate)
Avra Valley (CAP)	\$15 per acre foot (estimate)
Pima Mine Road (CAP)	\$10 per acre foot (estimate)
Central Avra Valley (Tucson Water)	\$14 per acre foot (estimate) ²
Lower Santa Cruz (CAP/Pima County)	\$20 per acre foot (estimate)
Vidler Water Co.	0 for Pilot Phase
Arizona Public Service	not yet negotiated
Mc Mullen Valley	not yet negotiated
Kai Farms	not yet negotiated

¹ This rate is paid directly to CAP by the GSF operators and is not available as revenue to the AWBA. It does reduce the AWBA rate for delivery of in-lieu water to \$22/af.

² In 1998, the rate was actually less than \$14. Because of favorable energy costs, it was closer to \$12.

The CAWCD has established a subcommittee to review the existing delivery rate for the AWBA's water. Two members of the AWBA sit on this subcommittee. The subcommittee continues to analyze long-term delivery rates of the AWBA's water for inclusion in the CAWCD's future pricing decisions.

The estimated total cost of the AWBA's 1999 Plan of Operation is \$11,200,000, which includes the USF use fees and the CAP delivery rate minus cost recovery from the GSF operator by the CAP.

ACCOUNTING

The AWBA's enabling legislation requires the development of an accounting system that allows the tracking of all long-term storage credits accrued by the AWBA and the funding sources from which they were developed. The Arizona Department of Water Resources has established accounts that track both credits and funds.

Table 4 provides estimates of the funds available including funds carried over from previous years, the funds to be expended, and the credits that will accrue to those accounts based on the 1999 Plan.

Table 4

1999 Plan of Operation				
	Funding Available ¹	Funding Expended	Amount	Credits ² Location
<u>Withdrawal Fee</u>				
Phoenix AMA	\$5,200,000	\$1,260,000	27,000	Phoenix AMA
Tucson AMA	\$1,400,000			
Pinal AMA	\$1,900,000	\$890,000	35,000	Pinal AMA
<u>Four Cent Tax</u>				
Maricopa County	\$7,700,000	\$6,200,000	140,000	Phoenix AMA
Pima County	\$1,900,000	\$1,300,000	21,000	Tucson AMA
Pinal County	\$230,000	\$230,000	9,000	Pinal AMA
<u>Other</u>				
General Fund	\$1,800,000	\$1,740,000	57,000	
<i>Phoenix AMA</i>		<i>\$250,000</i>	<i>6,000</i>	<i>Phoenix AMA</i>
<i>Tucson AMA</i>				
<i>Pinal AMA</i>		<i>\$1,100,000</i>	<i>45,000</i>	<i>Pinal AMA</i>
<i>LaPaz Cnty</i>		<i>\$390,000</i>	<i>6,000</i>	<i>LaPaz Cnty</i>
Total	\$20,130,000	\$11,620,000	289,000	

¹ Does not include in-lieu partners' payment. The AWBA's partners' make payments directly to CAP

² Estimate based on annual deliveries (annual delivery - 5% losses - 5% cut to the aquifer)

Table 5 provides an estimate of the funds expended and the credits that will accrue to various accounts based on the AWBA's recharge activities since its inception.

Table 5

Cumulative Totals (1997-1998)			
	Funds Expended	Credits¹ Amount	Location
<u>Withdrawal Fee</u>			
Phoenix AMA	\$0	0	
Tucson AMA	\$0	0	
Pinal AMA	\$280,000	13,000	Pinal AMA
<u>Four Cent Tax</u>			
Maricopa County	\$7,700,000	231,000	Phoenix AMA
Pima County	\$720,000	13,000	
Pinal County	\$370,000	2,000	Pinal AMA
<u>Other</u>			
General Fund	\$4,190,000	212,000	
<i>Phoenix AMA</i>	<i>\$990,000</i>	<i>34,000</i>	<i>Phoenix AMA</i>
<i>Tucson AMA</i>	<i>\$0</i>	<i>0</i>	
<i>Pinal AMA</i>	<i>\$3,200,000</i>	<i>178,000</i>	<i>Pinal AMA</i>
Total	\$13,260,000	489,000	

¹ Estimate based on annual deliveries (annual delivery - 5% losses - 5% cut to the aquifer)

PUBLIC REVIEW and COMMENT

The AWBA staff held a public meeting in conjunction with the Groundwater User Advisory Councils (GUACs) for the Phoenix, Tucson, and Pinal AMAs and the LaPaz County Board of Supervisors as required by the AWBA's enabling legislation. **(the results of the public meetings will be added after the meetings are held)**

Water Recharge Outside the AMA

Introduction

Each year, the Arizona Water Banking Authority (AWBA) pays the delivery and storage costs to bring Arizona's unused Colorado River water into central and southern Arizona through the Central Arizona Project (CAP). The water is stored underground in existing aquifer by direct recharge or is used by irrigation districts in lieu of pumping groundwater by indirect recharge. Water banking provides benefits such as drought protection, enhanced water management, assistance with Indian water rights settlements, and benefits for communities outside the CAP service area.

The AWBA has numerous indirect recharge partners (irrigation districts) and stores Colorado River water at underground storage facilities in the Phoenix and Tucson AMAs. To make optimal use of Colorado River water within Arizona (and in the future, possibly for interstate water banking), the AWBA is considering recharging water at several storage sites outside the AMA. Recharge outside the AMA involves new considerations in addition to the issues present when recharge occurs within the AMA. This paper discusses each issue.

I. Water Storage Permits

A. Indirect Recharge

In order to accrue long-term storage credits for indirect recharge, the AWBA must show that the entity that uses AWBA surface water in lieu of groundwater actually refrained from pumping groundwater that the entity had a right to pump. Since groundwater is only managed within the AMAs, the ADWR cannot restrict new groundwater pumping outside the AMAs. Without restrictions or specific conservation requirements, it would be difficult to compute long-term storage credits based upon exchanging groundwater for surface water because water reduction could simply not be measured. Additionally, groundwater conservation is not a requirement in many areas outside the AMA.

Because of the way long-term storage credits for in lieu recharge are calculated and because of the uncertainty surrounding this calculation, the AWBA should pursue direct recharge outside the AMAs.

B. Direct Recharge

Hydrologic data is critical for computation of long-term storage credits and for issuance of full-scale water storage permits. As part of the underground storage facility permit application process, underground storage facility owners or operators are required to provide a description of the impact of recharge activity on the area of hydrologic impact. The AWBA must obtain water storage permits from the ADWR for water storage at underground storage facilities. To assure that credits can be calculated accurately, the AWBA must include in agreements with private owners of

underground storage facilities a detailed monitoring plan, including the type of equipment, a plan for maintaining that equipment, and a data collection plan.

Because there are no restrictions on pumping outside the AMA, the AWBA needs additional assurance that water recharged at an underground storage facility will be available for recovery. An underground storage facility owner or operator outside the AMA must provide the AWBA with data on adjacent or nearby water usage to determine whether the recharged water will be available for recovery at a later time.

The underground storage facility owner and operator should be required to include information on a wide range of possible effects of recharge activity. These effects could include reduced groundwater levels from neighboring uses and also the potential for increased groundwater levels, which could encourage new uses. The AWBA will need to draft agreements that contain assurance that at a minimum, the underground storage facility operators will not undertake any new uses of water, such as farming, to take advantage of increased groundwater levels.

II. Storage Costs

The AWBA currently has three sources of funding: revenues from a groundwater pumping fee, revenues from an ad valorem tax of 4¢ per \$100 of assessed property value, and a general fund appropriation from the Arizona Legislature. Under current law, the AWBA cannot use revenues from groundwater pumping fees for recharge outside the AMA. The AWBA can use revenues from the four-cent *ad valorem tax* for the benefit of the counties within the AMA where the monies were collected. *See* A.R.S. § 45-2457.B.7. For the past two Annual Plans of Operation, the AWBA has deferred to the counties' interpretation of A.R.S. § 45-2457.B.7 that "for the benefit of the counties" means that monies generated in the counties must also be spent in the counties. In other words, if water is to be recharged for the benefit of a county, the recharge must occur in the county itself. As long as the AWBA follows this interpretation of the benefit provision of A.R.S. § 45-2457.B.7, the four-cent tax would not be available for use outside the counties. Thus, only general funds may be used to earn long-term storage credits for recharge that occurs *outside* the AMA. *See* A.R.S. § 45-2457.B.2. The AWBA received a \$2 million general fund appropriation last year.

Recharge outside the AMAs will generally be for the benefit of those outside the CAP service area. Recharge outside the AMA could involve different cost and funding components than recharge within the AMA. Most costs associated with delivery of Colorado River water are covered by the rate the AWBA pays to the CAWCD. However, when water is stored for the benefit of those outside the CAP service area, an additional \$15 per acre foot fee is required. The AWBA is exempt from this fee by statute, but this exemption does not include recharge for communities in Arizona outside the CAP service area or for the benefit of other states.

Private entities constructing direct recharge facilities will incur land acquisition, construction,

and equipment costs. These entities wish to recoup their costs as quickly as possible through the water storage rates they charge at their facilities. These rates would be higher than the rates the AWBA is accustomed to paying because the AWBA has historically recharged at publicly-owned facilities where recouping construction costs is not the highest priority. While private entities wishing to store water may be in a position to pay a “market rate” or higher for water storage, the AWBA may not always be in a position to pay these higher rates. The AWBA’s duty and its foremost consideration must be to maximize each recharge dollar available in the water banking fund.

Ultimately, privately owned entities facilities outside the AMA may be most appropriate for interstate water banking. The AWBA can most easily recoup all of the higher costs (facility fee, CAWCD fee in lieu of taxes, any other costs) from other states because the other states recharging water in Arizona must by law fully reimburse the AWBA for all costs associated with interstate water banking.

III. Private Ownership

A. Recovery

Future recovery of water recharged in underground storage facilities is a critical component of the AWBA’s choice of a recharge site. If the AWBA stores water outside the AMA, the AWBA and the underground storage facility owner must have a contractual agreement that will enable the water to be recovered at any given time. Recovery of water stored outside of an AMA can only occur if recovery will take place within the same irrigation non-expansion area, groundwater basin or groundwater sub-basin in which the water was stored. *See* A.R.S. § 45-834.01(3)(1996).

To date, the AWBA has never stored water in a privately owned recharge facility. Virtually all underground storage facilities the AWBA uses are owned or operated by the CAWCD or CAP subcontractors (CAVSARP is owned and operated by Tucson Water, the Avra Valley Recharge Project is owned and operated by the CAWCD, the Pima Mine Road Recharge Project is owned in partnership between the CAWCD and Tucson Water and operated solely by CAWCD, and the Granite Reef Underground Storage Project is owned by the Salt River Project and Phoenix area cities and is operated by the SRP). Storing water at these facilities provides an additional level of certainty because the entities recharging water are the same entities who will utilize the water upon recovery. When water is stored at facilities owned by CAP subcontractors, the need to directly pump water back into the CAP aqueduct for recovery purposes could be eliminated. In circumstances where the facilities are not owned by the CAP subcontractors, direct recovery via pumping water into the CAP aqueduct will be necessary.

Because direct recovery via the CAP aqueduct will be required at privately owned underground storage facilities, each agreement to store water must contain certainty that the

opportunity to recover the water will be available to the AWBA when it needs to recover water and pump it into the CAP canal. One way to achieve this certainty is to obtain easements that will guarantee the AWBA access to recovery wells regardless of the ownership of the land. This approach could alleviate some concerns that a private entity operating an underground storage facility will be “here today gone tomorrow.” Private entities could also be expected to provide performance bonds in the event of default or the company’s dissolution.

Well location is also critical to a successful recovery effort. Recovery wells must be located in an area where water can be successfully and cost-effectively recovered. If other entities storing water at the underground storage facility pump excessive water, the AWBA’s ability to recover water when needed may be affected.

Ultimately, water storage outside the AMAs must be “transparent” to the CAP user who are ultimately the end-users of the recovered water. The AWBA must enter into agreements with owners or operators of underground storage facilities that provide guaranteed access to recovery wells (perhaps by obtaining an easement) and to obtain certainty that at least on-site water usage will not change. The AWBA should consider a wide range of recovery scenarios (neighboring uses, potential increase in groundwater levels, others) prior to agreeing to store water at any particular location.

IV. Water Quality

Because direct recovery is required for water that has been recharged outside the AMAs, the quality of recovered water is especially important. Direct recovery results in a transparent transaction for CAP customers if the quality of the recovered water is comparable to the quality of the water in the CAP canal. However, there is no guarantee that water recovered from outside the AMAs will have the same quality as CAP water. Additional investigation will be needed to determine whether commingling groundwater and CAP water could cause problems for treatment plants.

Recovery could require some additional monitoring of water quality. Like the other issues raised in this discussion, water quality monitoring could be addressed in contracts between the underground storage facility and the CAWCD.

In addition to technical or logistical issues, the public perception of water banking and eventual water recovery is critical to the success of water banking statewide but especially outside the AMA. By law, groundwater cannot be transported from outside the AMA into the AMA. By banking water outside the AMA then recovering those credits inside the AMA, the AWBA will need to emphasize that groundwater is not being removed from communities outside the AMA for the benefit of communities inside the AMA. The water that is being recharged outside the AMA is surface water that would not have been present there without the AWBA. In fact, the five percent cut to the aquifer is a benefit to communities where recharge occurs. The “water transfer” label may

be applied by those who doubt the validity of artificial recharge and who suspect that water banking is disguised water transfer. A careful explanation of water banking as shortage protection or as supply augmentation (if the role of the AWBA changes) should easily demonstrate that water being banked and recovered within the AMA is water that would not otherwise have made it to the aquifer in the outside AMA area where it was stored.

To assure adequate public notice, the AWBA should provide an overview of its plans to recharge water in areas outside the AMA to the county board of supervisors for the county in which the underground storage facility is located. The AWBA has made and will continue to make similar presentations to the various groundwater users advisory councils in the respective AMAs.

REFERENCE TITLE:

State of Arizona
(Chamber of Origin)
Forty-fourth Legislature
First Regular Session
1999

_. B. _____

Introduced by _____

AN ACT

AMENDING TITLE 45, CHAPTER 14, ARIZONA REVISED STATUTES, TO ALLOW THE ARIZONA WATER BANKING AUTHORITY TO FACILITATE WATER STORAGE IN ARIZONA.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 45-2401, Arizona Revised Statutes, is amended to read:

45-2401. Declaration of policy and purpose

A. The legislature finds that this state is currently and temporarily underutilizing both the entitlement to Colorado river water confirmed to it by the United States supreme court in Arizona v. California, 373 U.S. 546 (1963), and the central Arizona project, which has the capacity to divert into this state a significant portion of this state's entitlement to Colorado river water. The legislature further finds that, due to the low priority on the Colorado river of the central Arizona project and other Arizona Colorado river water users, the susceptibility of this state to future shortages of water on the Colorado river is a threat to the general economy and welfare of this state and its citizens.

B. THE LEGISLATURE FURTHER FINDS THAT WATER USERS WITHIN THE CENTRAL ARIZONA PROJECT SERVICE AREA ALSO RELY ON OTHER SURFACE WATER SUPPLIES, THAT THESE SUPPLIES ARE SUSCEPTIBLE TO FUTURE SHORTAGES OF WATER AND THAT THESE SHORTAGES ARE A THREAT TO THE GENERAL ECONOMY AND WELFARE OF THIS STATE AND ITS CITIZENS.

B. C. The legislature further finds that future water needs in the states of California and Nevada could exceed the entitlements of those states to Colorado river water. Those future water needs could thereby affect the general economy and welfare of this state and its citizens because of the close economic ties among Arizona, California and Nevada.

1 D. THE LEGISLATURE FURTHER FINDS THAT ARIZONA WATER USERS
2 COULD MORE EFFICIENTLY MANAGE, DISTRIBUTE AND USE AVAILABLE WATER
3 RESOURCES THROUGH THE STORAGE OF WATER SUPPLIES AND THROUGH
4 STORED WATER LENDING ARRANGEMENTS, BUT THAT NOT ALL OF THESE
5 ARIZONA WATER USERS HAVE THE OPPORTUNITIES OR RESOURCES NEEDED TO
6 STORE WATER OR ENTER INTO STORED WATER LENDING ARRANGEMENTS.

7 E. E. The legislature further finds that for the purposes of this chapter diverting
8 Colorado river water for storage off of the Colorado river system is a consumptive use of that
9 water.

10 D. F. The legislature further finds that water banking is complimentary and compatible
11 with existing water management efforts. The Arizona water banking authority will compliment
12 and assist the activities of the central Arizona water conservation district in its mission to provide
13 a dependable and cost-effective water supply.

14 E. G. The legislature therefore finds that it is in the best interest of the general economy
15 and welfare of this state and its citizens to:

16 1. Use the central Arizona project to store otherwise unused Arizona entitlement to
17 Colorado river water within this state to meet future water needs within this state.

18 2. Provide the opportunity to the states of California and Nevada to store currently
19 unused Colorado river water in Arizona to meet future needs in those states.

20 3. PROVIDE THE OPPORTUNITY TO FACILITATE THE STORAGE OF WATER,
21 AS WELL AS STORED WATER LENDING ARRANGEMENTS, BY ENTITIES IN
22 ARIZONA WHICH MAY NOT HAVE THE OPPORTUNITIES OR RESOURCES NEEDED
23 TO STORE WATER.

24 F. H. The public policy and general purposes of this chapter are to:

25 1. Increase utilization of Arizona's Colorado river entitlement that was confirmed to
26 Arizona by the United States supreme court in article ii(b)(1), (2) and (6) of the decree entered at
27 Arizona v. California, 376 U.S. 340 (1964), and that would otherwise be unused in Arizona, by
28 delivering that water into this state through the central Arizona project aqueducts.

29 2. Store water brought into this state through the central Arizona project to protect
30 Arizona municipal and industrial water users against future water shortages on the Colorado river
31 and disruptions of operation of the central Arizona project.

32 3. Store water brought into this state through the central Arizona project to fulfill the
33 water management objectives of this state set forth in chapter 2 of this title.

34 4. Provide the opportunity for storing water brought into this state through the central
35 Arizona project to be available to implement the settlement of water right claims by Indian
36 communities within Arizona.

37 5. Provide the opportunity to authorized agencies in the states of California and Nevada
38 to store otherwise unused Colorado river water in Arizona to assist those states in meeting future
39 water needs.

40 6. PROVIDE THE OPPORTUNITY TO FACILITATE THE STORAGE OF WATER,
41 AS WELL AS STORED WATER LENDING ARRANGEMENTS, BY ENTITIES IN
42 ARIZONA WHICH MAY NOT HAVE THE OPPORTUNITIES OR RESOURCES NEEDED
43 TO STORE WATER.

1 Section 2. Section 45-2402, Arizona Revised Statutes, is amended to read:

2 45-2402. Definitions

3 Unless the context otherwise requires, the terms defined in sections 45-101, 45-402 and 45-
4 802.01 have the same meaning in this chapter and for purposes of this chapter:

5 1. "Authority" means the Arizona water banking authority.

6 2. "Banking fund" means the Arizona water banking fund.

7 3. "Central Arizona water conservation district" or "CAWCD" means the multi-county
8 water conservation district established under title 48, chapter 22.

9 4. "Commission" means the Arizona water banking authority commission.

10 5. "Decree" means the decree entered by the United States supreme court in Arizona v.
11 California, 376 U.S. 340 (1964).

12 6. "WATER BANKING SERVICES" MEANS SERVICES PROVIDED BY THE
13 AUTHORITY TO PERSONS AND INDIAN COMMUNITIES IN THIS STATE TO
14 FACILITATE FOR THOSE PERSONS AND INDIAN COMMUNITIES STORAGE OF
15 WATER AND STORED WATER LENDING ARRANGEMENTS. WATER BANKING
16 SERVICES INCLUDE ONLY ARRANGEMENTS BY WHICH WATER WILL BE MADE
17 AVAILABLE FOR USE IN ARIZONA. WATER BANKING SERVICES DO NOT INCLUDE
18 INTERSTATE WATER BANKING UNDERTAKEN BY THE AUTHORITY PURSUANT TO
19 ARTICLE 4 OF THIS CHAPTER. WATER BANKING SERVICES MAY INCLUDE, BUT
20 ARE NOT LIMITED TO:

21 a. STORAGE OF WATER

22 b. OBTAINING WATER STORAGE PERMITS

23 c. ACCRUING, EXCHANGING, AND ASSIGNING LONG-TERM STORAGE
24 CREDITS.

25 d. LENDING AND OBTAINING REPAYMENT OF LONG-TERM STORAGE
26 CREDITS.

27 7. "WATER BANKING SERVICES AGREEMENT" MEANS AN AGREEMENT
28 ENTERED INTO BETWEEN THE AUTHORITY AND A PERSON OR INDIAN
29 COMMUNITY IN THIS STATE UNDER WHICH THE AUTHORITY WILL PROVIDE
30 WATER BANKING SERVICES TO THAT PERSON OR INDIAN COMMUNITY.

31 Section 3. Section 45-2423, Arizona Revised Statutes, is amended to read:

32 45-2423. Powers and duties of authority

33 A. The authority, acting through its commission, shall:

34 1. Administer the Arizona water banking fund in accordance with this chapter.

35 2. Coordinate its staffing needs with the director and CAWCD.

36 3. Coordinate the storage of water and distribution and extinguishment of long-term
37 storage credits with the director in accordance with this chapter and the water management
38 objectives set forth in chapter 2 of this title.

39 4. Coordinate with CAWCD for the purchase, delivery and storage of Colorado river
40 water delivered through the central Arizona project in accordance with this chapter.

41 5. Coordinate and confer with state agencies, municipal corporations, special districts,
42 authorities, other political subdivisions, private entities, Indian communities and the United
43 States on matters within their jurisdiction relating to the policy and purposes of this chapter.

1 6. Determine, on an annual basis, the quantity of Colorado river water to be stored by the
2 authority and where that storage will occur.

3 7. Account for, hold and distribute or extinguish long-term storage credits in accordance
4 with this chapter.

5 8. Comply with all aspects of chapter 3.1 of this title.

6 9. Adopt an official seal for the authentication of its records, decisions and resolutions.

7 10. Keep the minutes of its meetings, all records, reports and other information relating
8 to its work and programs in permanent form, systematically indexed and filed.

9 B. The authority, acting through its commission, may:

10 1. Apply for and hold water storage permits.

11 2. Accrue, exchange, ASSIGN, LEND and hold long-term storage credits in accordance
12 with this chapter.

13 3. Exchange Colorado river water for any type of water in accordance with chapter 4 of
14 this title.

15 4. ENTER INTO WATER BANKING SERVICES AGREEMENTS.

16 5. CHARGE REASONABLE FEES FOR WATER BANKING SERVICES.

17 6. APPLY FOR AND HOLD ANY WATER QUALITY PERMIT REQUIRED FOR
18 WATER STORAGE BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER
19 TITLE 49, CHAPTER 2, ARTICLE 3 AND BY FEDERAL LAW.

20 4. 7. Make and execute all contracts, including intergovernmental agreements pursuant
21 to title 11, chapter 7, article 3, that shall be signed by the chairperson, or in the chairperson's
22 absence the vice-chairperson, and attested by the secretary, necessary to:

23 (a) Obtain for storage Colorado river water delivered through the central Arizona project.
24 Agreements by which the authority obtains Colorado river water are exempt from the
25 requirements of title 41, chapter 23.

26 (b) OBTAIN FOR STORAGE EFFLUENT, BUT ONLY AFTER THE AUTHORITY
27 HAS STORED ALL AVAILABLE EXCESS CENTRAL ARIZONA PROJECT WATER OR
28 WHEN CENTRAL ARIZONA PROJECT WATER IS OTHERWISE UNAVAILABLE OR
29 UNDELIVERABLE.

30 (b) (c) Affiliate water storage permits held by the authority with storage facility permits.

31 (c) (d) Store Colorado river water at permitted storage facilities.

32 (d) (e) Distribute long-term storage credits earned by the authority to make water
33 available to municipal and industrial users of Colorado river water in this state that are inside or
34 outside of the CAWCD service area, in accordance with the provisions of this chapter.

35 (e) (f) Store Colorado river water in Arizona on behalf of appropriately authorized
36 agencies in California and Nevada.

37 (f) (g) Cause a decrease in Arizona diversions from the Colorado river, ensuring that
38 Arizona will use less than its full entitlement to Colorado river water in years in which California
39 and Nevada agencies are contractually authorized to call on the water stored on their behalf by
40 the authority.

41 (g) (h) Distribute long-term storage credits earned by the authority on behalf of agencies
42 in California and Nevada to Colorado river water users in Arizona to use in place of Colorado
43 river water that would have otherwise been used by those Arizona users.

1 5: 8. Sue and be sued.

2 6: 9. Perform all other acts necessary for the authority to carry out its purposes, powers
3 and duties in accordance with this chapter.

4 7. 10. Submit a request for a general fund appropriation to the legislature each year. A
5 request shall be accompanied by a budget detailing how the appropriation would be used and
6 justifying the need for the appropriation.

7 Section 4. Section 45-2425, Arizona Revised Statutes, is amended to read:

8 45-2425. Arizona water banking fund

9 A. The Arizona water banking fund is established. The state treasurer shall establish
10 subaccounts of the banking fund based on funding sources. The authority shall administer the
11 fund in accordance with this chapter.

12 B. The banking fund consists of all of the following:

13 1. Monies appropriated from the state general fund by the legislature.

14 2. Reimbursement for the distribution of long-term storage credits, collected by the
15 authority in accordance with section 45-2457, subsection B, paragraph 2.

16 3. Monies paid to the authority by the recipients of in lieu water at a groundwater savings
17 facility, in accordance with section 45-2455, subsection C.

18 4. Monies collected in accordance with section 45-611, subsection C, paragraph 3.

19 5. Monies deposited in the fund in accordance with section 48-3715.03, subsection B.

20 6. Monies paid to the authority by agencies that have entered into interstate banking
21 agreements with the authority in accordance with section 45-2471.

22 7. MONIES PAID TO THE AUTHORITY BY PERSONS AND INDIAN
23 COMMUNITIES IN THIS STATE THAT HAVE ENTERED INTO WATER BANKING
24 SERVICES AGREEMENTS WITH THE AUTHORITY IN ACCORDANCE WITH SECTION
25 45-2455.01.

26 C. In addition to the monies prescribed in this section, the authority may accept any gifts,
27 grants or donations and deposit those monies in the banking fund.

28 D. Monies in the banking fund are exempt from lapsing under section 35-190. Interest
29 earned on monies in the banking fund shall be credited to the banking fund.

30 E. The authority may use the banking fund to pay all reasonable expenses incurred in
31 carrying out its duties and responsibilities in accordance with this chapter.

32 Section 5. Section 45-2427, Arizona Revised Statutes, is amended to read:

33 45-2427. Limitation on powers

34 A. This chapter does not authorize the authority to exercise any right of eminent domain.

35 B. The authority shall not store Colorado river water that would otherwise have been
36 used in this state.

37 C. The authority shall not enter into contracts with agencies in California and Nevada for
38 the storage of water on their behalf until both of the following occur:

39 1. Regulations are in effect, promulgated by the secretary of the interior of the United
40 States, that facilitate and allow the contractual distribution of unused entitlement under article
41 II(b)(6) of the decree.

42 2. The director finds that the rules promulgated by the secretary of the interior adequately
43 protect this state's rights to Colorado river water, as those rights are defined by the decree.

1 D. THE AUTHORITY SHALL NOT ENTER INTO WATER BANKING SERVICES
2 AGREEMENTS THAT WILL PROVIDE WATER FOR USE OUTSIDE ARIZONA. THE
3 AUTHORITY MAY CANCEL ANY WATER BANKING SERVICES AGREEMENT,
4 WITHOUT PENALTY OR FURTHER OBLIGATION, IF, AFTER ENTERING INTO A
5 WATER BANKING SERVICES AGREEMENT, THE AUTHORITY FINDS THAT THE
6 AGREEMENT WILL PROVIDE WATER FOR USE OUTSIDE ARIZONA. NOTICE OF
7 THIS SUBSECTION SHALL BE INCLUDED IN EVERY WATER BANKING SERVICES
8 AGREEMENT ENTERED INTO BY THE AUTHORITY. THE CANCELLATION UNDER
9 THIS SUBSECTION SHALL BE EFFECTIVE WHEN WRITTEN NOTICE PROVIDED BY
10 THE AUTHORITY IS RECEIVED BY ALL OTHER PARTIES TO THE WATER BANKING
11 SERVICES AGREEMENT.

12 Section 6. Title 45, chapter 14, is amended by adding a new section 45-2455.01, to read:
13 45-2455.01. Water banking services agreements

14 A. THE AUTHORITY MAY ENTER INTO A WATER BANKING SERVICES
15 AGREEMENT UNDER WHICH THE AUTHORITY WILL LOAN LONG-TERM STORAGE
16 CREDITS TO A PERSON OR AN INDIAN COMMUNITY IN THIS STATE IF ALL OF THE
17 FOLLOWING APPLY:

18 1. THE AGREEMENT REQUIRES THE PERSON OR INDIAN COMMUNITY TO
19 PAY THE AUTHORITY ALL COSTS INCURRED BY THE AUTHORITY IN ACCRUING
20 THE LONG-TERM STORAGE CREDITS TO BE LOANED UNDER THE AGREEMENT.

21 2. THE AGREEMENT REQUIRES THAT THE COSTS, SPECIFIED IN
22 PARAGRAPH 1 OF THIS SUBSECTION, FOR EACH LONG-TERM STORAGE CREDIT TO
23 BE LOANED UNDER THE AGREEMENT ARE TO BE PAID TO THE AUTHORITY
24 BEFORE THE AUTHORITY DISTRIBUTES THE CREDIT PURSUANT TO THE
25 AGREEMENT.

26 3. THE AGREEMENT REQUIRES THE AUTHORITY TO MAKE GOOD FAITH
27 EFFORTS TO STORE WATER TO REPLACE THE LONG-TERM STORAGE CREDITS
28 LOANED UNDER THE AGREEMENT AT A COST EQUAL TO OR LESS THAN THE
29 AMOUNT PAID TO THE AUTHORITY IN ACCORDANCE WITH PARAGRAPHS 1 AND 2
30 OF THIS SUBSECTION.

31 4. THE AGREEMENT PROVIDES THAT, IF THE AUTHORITY CANNOT
32 REPLACE THE CREDITS AT A COST EQUAL TO OR LESS THAN THE AMOUNTS PAID
33 TO THE AUTHORITY IN ACCORDANCE WITH PARAGRAPHS 1 AND 2 OF THIS
34 SUBSECTION WITHIN TEN YEARS OF THE CREDITS BEING DISTRIBUTED UNDER
35 THE AGREEMENT, THE AUTHORITY MAY COLLECT FROM THE OTHER PARTY TO
36 THE AGREEMENT THE DIFFERENCE BETWEEN THE AMOUNT PAID TO THE
37 AUTHORITY IN ACCORDANCE WITH PARAGRAPHS 1 AND 2 OF THIS SUBSECTION
38 AND THE COST TO THE AUTHORITY OF REPLACING THE CREDITS LOANED UNDER
39 THE AGREEMENT. THE AGREEMENT MAY PROVIDE THAT, SUBJECT TO
40 APPROVAL BY THE AUTHORITY, THE OTHER PARTY TO THE AGREEMENT MAY
41 ASSIGN TO THE AUTHORITY THE NUMBER OF LONG-TERM STORAGE CREDITS
42 LOANED TO THE PARTY BUT NOT REPLACED BY THE AUTHORITY WITH THE
43 AMOUNT PAID BY THAT PARTY PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS

1 SUBSECTION IN LIEU OF THE PARTY PAYING ADDITIONAL COSTS PURSUANT TO
2 THIS PARAGRAPH.

3 B. THE AUTHORITY MAY ENTER INTO A WATER BANKING SERVICES
4 AGREEMENT WITH A PERSON OR INDIAN COMMUNITY TO STORE WATER ON
5 BEHALF OF THE PERSON, INDIAN COMMUNITY OR OTHER BENEFICIARY NAMED
6 IN THE AGREEMENT, IF ALL OF THE FOLLOWING APPLY:

7 1. THE PERSON, INDIAN COMMUNITY OR NAMED BENEFICIARY HAS THE
8 LEGAL AUTHORITY TO STORE WATER, COULD LEGALLY OBTAIN THE WATER
9 THAT THE AUTHORITY WILL STORE UNDER THE AGREEMENT, COULD ACCRUE
10 LONG-TERM STORAGE CREDITS FOR THE WATER TO BE STORED IN ACCORDANCE
11 WITH CHAPTER 3.1 OF THIS TITLE AND COULD OTHERWISE LEGALLY STORE
12 WATER IN ACCORDANCE WITH THE LAWS OF THIS STATE.

13 2. THE AGREEMENT REQUIRES THE PERSON OR INDIAN COMMUNITY
14 ENTERING INTO THE AGREEMENT TO PAY TO THE AUTHORITY ALL COSTS THAT
15 ARE OR WILL BE INCURRED BY THE AUTHORITY IN ENTERING INTO AND
16 EXECUTING ITS OBLIGATIONS UNDER A WATER BANKING SERVICES
17 AGREEMENT.

18 C. IN DETERMINING COSTS OF PERFORMING WATER BANKING SERVICES
19 PURSUANT TO SUBSECTION A, PARAGRAPHS 1 AND 4, AND SUBSECTION B,
20 PARAGRAPH 2, THE AUTHORITY MAY INCLUDE THE FOLLOWING COSTS:

- 21 1. THE COST OF ACQUIRING WATER.
- 22 2. THE COST OF DELIVERING THAT WATER TO A STORAGE FACILITY,
23 INCLUDING FEES FOR THE OPERATION, MAINTENANCE, PUMPING ENERGY AND
24 CAPITAL COSTS OF THE CENTRAL ARIZONA PROJECT, AS ESTABLISHED BY THE
25 CAWCD, AND OTHER AQUEDUCTS.
- 26 3. THE COST OF STORING WATER, INCLUDING CONSTRUCTION, OPERATION
27 AND MAINTENANCE COSTS ASSOCIATED WITH USING A STORAGE FACILITY.
- 28 4. A FEE EQUIVALENT TO THE APPROXIMATE AMOUNT OF
29 ADMINISTRATIVE, LEGAL AND TECHNICAL EXPENSES INCURRED BY THE
30 AUTHORITY IN ENTERING INTO AND EXECUTING ITS OBLIGATIONS UNDER A
31 WATER BANKING SERVICES AGREEMENT.
- 32 5. ANY ADDITIONAL COSTS THE AUTHORITY DEEMS NECESSARY TO
33 ENTER INTO AND EXECUTE ITS OBLIGATIONS UNDER A WATER BANKING
34 SERVICES AGREEMENT.

35 D. A WATER BANKING SERVICES AGREEMENT MAY REQUIRE THE PERSON
36 OR INDIAN COMMUNITY ENTERING INTO THE AGREEMENT TO OBTAIN A
37 PERFORMANCE BOND TO ENSURE PAYMENT TO THE AUTHORITY OF ALL MONIES
38 OWED TO THE AUTHORITY UNDER THE AGREEMENT.

39 Section 7. Section 45-2457, Arizona Revised Statutes, is amended to read:
40 45-2457. Accounting; rules of operation

41 A. The authority shall develop an accounting system for the long-term storage credits
42 accrued by the authority. The accounting system shall be designed to allow the authority to
43 determine which funding source of the banking fund paid for each long-term storage credit

1 accrued by the authority.

2 B. The authority shall operate in accordance with all of the following rules of operation:

3 1. The authority shall reserve a reasonable number of long-term storage credits accrued
4 with general fund appropriations for the benefit of municipal and industrial users of Colorado
5 river water in this state that are outside of the service area of CAWCD.

6 2. The authority may distribute long-term storage credits accrued with general fund
7 appropriations for both of the following:

8 (a) To make water available to a municipal and industrial user of Colorado river water in
9 this state that is outside of the service area of CAWCD, if both of the following apply:

10 (i) The municipal and industrial user would otherwise suffer a water shortage. The
11 authority may distribute long-term credits to the extent reasonably necessary to offset the water
12 shortage.

13 (ii) The authority collects reimbursement for the cost to the authority of replacing the
14 long-term storage credits distributed.

15 (b) To make water available to CAWCD to the extent necessary for CAWCD to meet the
16 demands of its municipal and industrial subcontractors, if all of the following apply:

17 (i) CAWCD's normal diversions from the Colorado river have been or will be disrupted
18 by shortages on the river or by disruptions in the operation of the central Arizona project.

19 (ii) The authority does not distribute for this purpose the long-term storage credits
20 reserved in accordance with paragraph 1 of this subsection.

21 (iii) The authority collects reimbursement from CAWCD for the cost to the authority of
22 replacing the long-term storage credits distributed.

23 3. The authority may distribute or extinguish long-term storage credits accrued with
24 general fund appropriations to implement the settlement of water right claims by Indian
25 communities in this state.

26 4. On request from the director, the authority may extinguish long-term storage credits
27 accrued with general fund appropriations to fulfill the water management objectives set forth in
28 chapter 2 of this title.

29 5. The authority may exchange long-term storage credits accrued with general fund
30 appropriations for long-term storage credits held by other persons if the long-term storage credits
31 received by the authority were stored in a location that better enables the authority to fulfill the
32 purposes and policies of this chapter than were the long-term storage credits exchanged by the
33 authority. For the purposes of this paragraph, the authority may make exchanges of long-term
34 storage credits stored in one active management area for long-term storage credits stored in a
35 different active management area or of long-term storage credits stored in one groundwater basin
36 for long-term storage credits stored in a different groundwater basin.

37 6. The authority shall distribute or extinguish long-term storage credits accrued with
38 monies collected in accordance with section 45-611, subsection C, paragraph 3 only for the
39 benefit of the active management area in which the monies were collected. The authority may
40 distribute or extinguish these long-term storage credits to implement the settlement of water right
41 claims by Indian communities in this state or, on request from the director, to meet the water
42 management objectives set forth in chapter 2 of this title.

43 7. The authority shall distribute long-term storage credits accrued with monies deposited

1 in the fund in accordance with section 48-3715.03, subsection ~~b~~ B only for the benefit of the
2 county in which the monies were collected. The authority shall distribute these long-term storage
3 credits to CAWCD to the extent necessary to meet the demands of CAWCD's municipal and
4 industrial subcontractors during times in which CAWCD's diversions from the Colorado river
5 have been or will be disrupted by shortages on the Colorado river or by disruptions in operation
6 of the central Arizona project.

7 8. FOR EACH COUNTY WITHIN THE CAWCD SERVICE AREA, UPON A
8 DETERMINATION BY THE AUTHORITY THAT THE NUMBER OF LONG-TERM
9 STORAGE CREDITS ACCRUED WITH MONIES DEPOSITED IN THE FUND IN
10 ACCORDANCE WITH SECTION 48-3715.03, SUBSECTION B, EXCEEDS THE NEEDS
11 SPECIFIED IN PARAGRAPH 7 OF THIS SUBSECTION FOR THAT COUNTY, THE
12 AUTHORITY MAY DISTRIBUTE THOSE EXCESS LONG-TERM STORAGE CREDITS TO
13 MUNICIPAL AND INDUSTRIAL WATER USERS WITHIN THAT COUNTY THAT ARE
14 EXPERIENCING SURFACE WATER SUPPLY SHORTAGES NOT ASSOCIATED WITH
15 THE CENTRAL ARIZONA PROJECT. OF THE LONG-TERM STORAGE CREDITS
16 DETERMINED TO BE AVAILABLE PURSUANT TO THIS PARAGRAPH, THE LONG-
17 TERM STORAGE CREDITS SHALL BE MADE AVAILABLE TO MUNICIPAL AND
18 INDUSTRIAL WATER USERS THAT ARE EXPERIENCING SURFACE WATER SUPPLY
19 SHORTAGES IN PROPORTION TO THE CUMULATIVE AMOUNT OF REVENUES PAID
20 PURSUANT TO SECTION 48-3715.01, SUBSECTION B, BY THE TAXPAYERS WITHIN
21 THE BOUNDARIES OF THE RESPECTIVE MUNICIPAL AND INDUSTRIAL WATER
22 SERVICE PROVIDERS TO THE TOTAL AMOUNT OF REVENUES PAID BY ALL
23 TAXPAYERS WITHIN THE COUNTY.

24 9. THE AUTHORITY SHALL DISTRIBUTE LONG-TERM STORAGE CREDITS
25 ACCRUED WITH MONIES COLLECTED PURSUANT TO WATER BANKING SERVICES
26 AGREEMENTS IN ACCORDANCE WITH THE TERMS OF THOSE AGREEMENTS.

27 C. Any other long-term storage credits accrued by the authority may be distributed or
28 extinguished by the authority in accordance with the policy and purposes of this chapter.

29 D. Except as provided by subsection B, paragraph 7 of this section and except as
30 provided by agreements entered into by the authority, the decision to distribute or extinguish any
31 long-term storage credit accrued by the authority is at the complete discretion of the authority.

32 Section 8. Section 48-3715, Arizona Revised Statutes, is amended to read:

33 48-3715. Tax levy

34 A. On or before the second Monday in August of each year, the clerk of the county board of
35 supervisors of each county within the district shall certify to the district board the total assessed
36 valuation of all taxable property in the county. On or before the third Monday in August of each year,
37 the district board shall fix the amount to be raised by direct taxation for the purpose of carrying out
38 the provisions of this chapter, and shall levy a tax sufficient to raise such amount. Such tax shall not
39 exceed ten cents on each one hundred dollars of assessed valuation in the district. The district board
40 shall forthwith certify such tax rate to the board of supervisors of each county within the district,
41 which boards at the time of levying general county taxes shall levy and cause to be collected taxes
42 on the taxable property within such county at the tax rate fixed by the district board. The tax when
43 collected shall be paid to the state treasurer and be credited to the district fund to be expended by the

1 district only for purposes authorized by this chapter, which shall include costs and expenses of
2 administration.

3 B. The district board shall charge and collect a fee in lieu of taxes paid pursuant to subsection
4 A for each acre-foot of central Arizona project water purchased or leased and delivered to or credited
5 to a purchaser or lessee. The amount of this fee shall be computed by dividing the sum of the taxes
6 levied in each county within the district pursuant to subsection A in the PREVIOUS year in which
7 the fee is charged by the AVERAGE ANNUAL amount of Colorado river water ~~available for~~
8 ~~diversion into the central Arizona project as determined by the secretary during that year~~
9 DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT SYSTEM FOR NON-FEDERAL
10 MUNICIPAL AND INDUSTRIAL AND AGRICULTURAL USE OVER THE PREVIOUS THREE
11 (3) YEARS. This fee does not apply to:

12 1. Indian tribes with respect to water used directly on Indian reservation land in this state or
13 on land owned in this state by the Indian tribe.

14 2. Water service providers whose customers are real property owners within the service area
15 of the district and who pay the tax levied pursuant to subsection A. For purposes of this paragraph,
16 "water service provider" means any person that has any obligation or duty of any nature to deliver
17 water within the district's service area.

18 3. Persons who have entered into a contract with the district under which they agree to make
19 payments in lieu of the tax levied pursuant to subsection A.

20 4. Persons that are real property owners within the service area of the district and that will
21 use the water within the district's service area.

22 5. The Arizona water banking authority if that authority is acquiring water that will be used
23 for the benefit of those persons prescribed in this subsection.
24