

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, MAY 19, 1999

PLEASE PRINT

ARIZONA DEPARTMENT OF WATER RESOURCES

	NAME	REPRESENTING
1	Richard Siegel	SRP
2	Mark Brown	Metro
3	Mark Furkin	
4	Stephanie Gerlach	Stantec
5	BARBARA GERHART ^{FOR} Bob LYNCH	IEDA
6	Larry Dozier	EA?
7	Rock Cromen	MVWCDO
8	Andrew Burns	CRC
9	Paul Orme	CADD/MSDD
10	Chris Lemke	Dem. Staff AZ House of Rep.
11	Cynthia Stefanovic	Az State Land Dept
12	Bob Barrett	CAP
	Don Stein	FOR Staff
14	Susan Unabel	Senate Staff
15	Harry Kuznerian	MWD
16	Bob McQuinn	
17	Shel Jones	Phoenix AMA
18	DAVID IWANSKI	AGRI-BUSINESS COUNCIL
19	Floyd Mavris	City of Scottsdale
20		
21		
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29		
	NAME	REPRESENTING

Arizona Water Banking Authority
500 North Third Street, Phoenix, Arizona 85004
Telephone 602-417-2418
Fax 602-417-2401
Web Page: www.awba.state.az.us

FINAL AGENDA
Wednesday, May 19, 1999
10:00 a.m.

Arizona Department of Water Resources
Third floor conference room

- I. Welcome/Opening Remarks
- II. Approval of Minutes of April 21 Meeting
- III. April Deliveries/Staff Activities
 - Draft year 2000 Budget being prepared for presentation at June meeting
 - Update on House Bill 2463
 - Salt River Project/AWBA/CAWCD Groundwater Savings Facility Agreement update
- IV. Draft Annual Report
 - Final will be presented at June meeting
 - The next Annual Report (for year 1999) will be more extensive per changes set forth in HB 2463
- V. Recovery Subcommittee Update
 - Handouts from meeting available to public
- VI. Interstate Issues Update
 - Status report on Arizona Indian water rights settlement negotiations and publication of the Interstate Water Banking Rules
- VII. Call to the Public

Future Meeting Dates:

Wednesday, June 16, 1999

Wednesday, July 21, 1999

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

April 21, 1999

Arizona Department of Water Resources



AUTHORITY MEMBERS
Rita P. Pearson, Chairman
Tom Griffin, Vice-Chairman
Bill Chase, Secretary
George Renner
Richard S. Walden

EX OFFICIO MEMBERS
Representative Gail Griffin
Senate appointment vacant

Welcome/Opening Remarks

All members of the Authority (except the *ex officio* member, Gail Griffin) were present.

Minutes

The March 17th minutes were approved as submitted.

Plan of Operation and Other Staff Activities

Deliveries: Tim Henley, Manager of the AWBA, reviewed 1999 delivery figures. He explained that the AWBA is just about on target with its water delivery projections for 1999 so far. As the irrigation season approaches, constraints on deliveries may increase.

WestLand Resources Data: The AWBA contracted with an environmental consulting firm over a year ago to do an inventory of Arizona's water infrastructure in order to help the AWBA better understand and formulate its recovery options. Now that a great deal of water recovery data has been compiled, the AWBA's Recovery Subcommittee will hold a Recovery Workshop to begin exploring recovery concepts. The workshop is open to the public and will consist of a presentation and an open comment period. It will take place on April 29, 1999 at the ADWR from 10-12 in the Third Floor Conference Rooms.

Legislation Update

HB 2463 (Water Banking Amendments) passed out of the Legislature in late March, and the Governor signed the bill into law on April 1, 1999. The law becomes effective July 1, 1999. The final chaptered version of the bill is not yet available, but it is identical to the introduced version.

Salt River Project Presentation

Dave Roberts of the SRP made a presentation describing the Gila River Indian Community Settlement discussions and how the AWBA, the SRP, and the CAWCD (in partnership) can contribute to the settlement. Part of the settlement would involve an agreement between the AWBA, the SRP, and the CAWCD to store approximately 200,000 acre feet of water at SRP groundwater savings facilities in order to "firm" 15,000 acre feet of water to be delivered to the GRIC each year to partially settle the GRIC lawsuit. Mr. Roberts provided handouts and answered numerous questions.

AWBA/SRP/CAWCD GSF Storage Agreement

An agreement to store water at SRP GSFs will go forward regardless of whether it actually becomes a part of any GRIC settlement. All members of the Authority agree that there is no "downside risk" to proceeding with the agreement because if it is not part of the settlement, then the AWBA has simply recharged more water and obtained additional long-term storage credits. The agreement is nearly complete; all parties agree in principle to most of the provisions, but a few more details need to be finalized. A motion to allow the Chairman to sign the agreement when these last details have been finalized was made and passed.

Amendment of 1999 Plan of Operation to Reflect GSF Agreement

The AWBA statutes require the Plan of Operation to be amended to reflect significant changes to the Plan of Operation. Because significant cost increases will flow from this GSF Agreement and because the water stored will increase by about 60,000 af in one year alone, the Authority must amend the Plan for 1999. A motion was made, and the Plan was amended. The amended Plan will be available on the AWBA's web page.

Interstate Issues

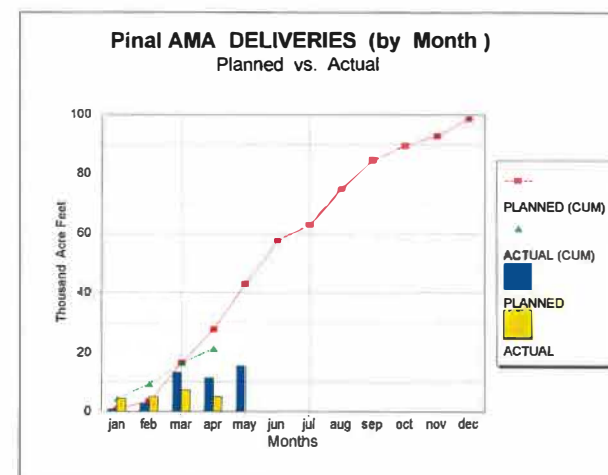
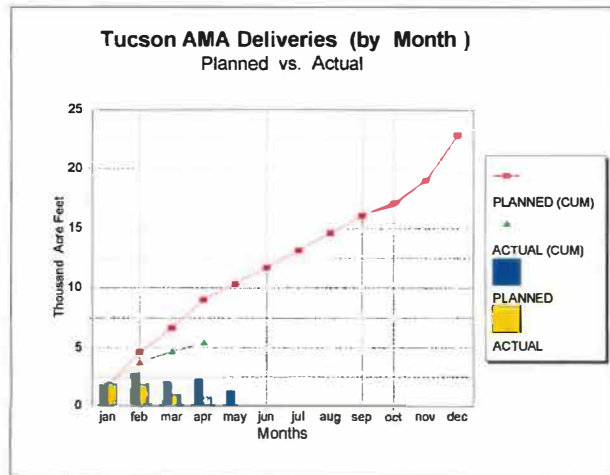
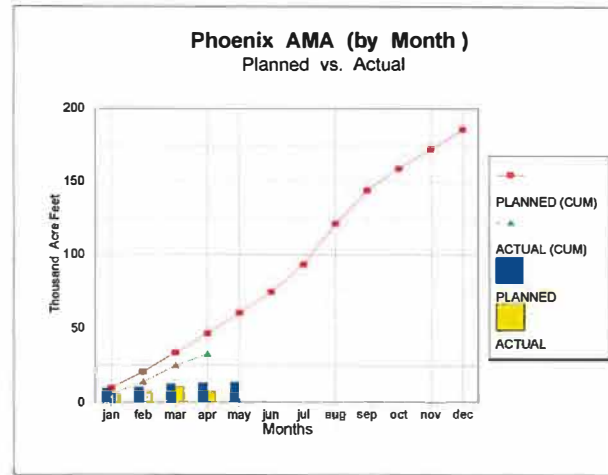
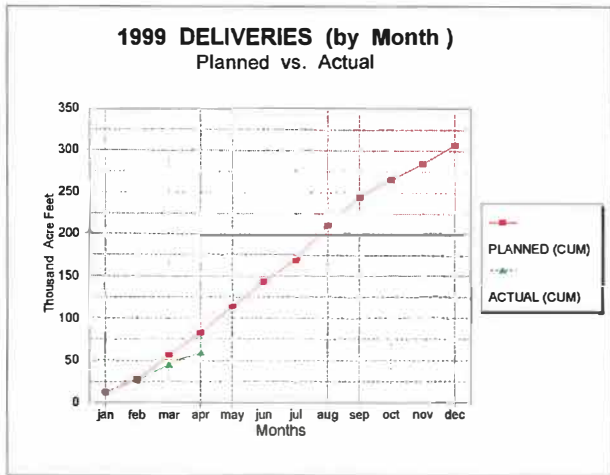
Chairman Pearson stated that the six Basin State representatives will meet with the new California Department of Water Resources director some time in the next thirty days. MWD is trying to resolve issues with the other California agencies by June 17, when the Memorandum of Understanding that these parties reached several months ago expires.

Ms. Pearson also discussed staff changes at the U.S. Department of the Interior. Dale Pontius was recently appointed Assistant Solicitor for Land and Water.

Call to the Public

The next meeting is on May 19, 1999. The meeting was adjourned at 11:20 am.

1999 Plan of Operation



Actual deliveries updated 17-May-99

	jan	feb	mar	apr	may
Phoenix AMA					
GRUSP	3,822	4,706	5,125	3,496	7,500
NMIDD	2,034	2,778	3,894	1,097	3,000
QCID	0	0	0	0	0
MWD	0	588	1,766	2,944	2,941
TID	0	0	0	0	0
VIDLER MBT	0	0	0	0	410
Subtotal	5,856	8,072	10,785	7,537	13,851
Total to date	5,856	13,928	24,713	32,250	46,101
Pinal AMA					
CAIDD	0	0	0	0	0
MSIDD	1,906	1,475	372	0	7,800
HIDD	2,274	3,429	6,793	4,890	2,500
Subtotal	4,180	4,904	7,165	4,890	10,300
Total to date	4,180	9,084	16,249	21,139	31,439
Tucson AMA					
Avra Valley	0	0	0	0	750
CAVSARP	678	633	811	727	600
Pima Mine	1,248	1,145	129	8	0
Lower Santa Cruz	0	0	0	0	0
Kai/Avra	0	0	0	0	0
Subtotal	1,926	1,778	940	735	1,350
Total to date	1,926	3,704	4,644	5,379	6,729
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TOTAL	11,962	14,754	18,890	13,162	25,501
Total to date	11,962	26,716	45,606	58,768	84,269

FILED

State of Arizona
House of Representatives
Forty-fourth Legislature
First Regular Session
1999

Betsey Bayless
Secretary of State

CHAPTER 16

HOUSE BILL 2463

AN ACT

AMENDING SECTIONS 45-2401, 45-2402, 45-2423, 45-2425, 45-2426, 45-2427, 45-2456 AND 45-2457, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 14, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-2458; AMENDING SECTION 48-3715, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA WATER BANKING AUTHORITY.

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

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

4 45-2401. Declaration of policy and purpose

5 A. The legislature finds that this state is currently and temporarily
6 underutilizing both the entitlement to Colorado river water confirmed to it
7 by the United States supreme court in Arizona v. California, 373 U.S. 546
8 (1963), and the central Arizona project, which has the capacity to divert
9 into this state a significant portion of this state's entitlement to Colorado
10 river water. The legislature further finds that, due to the low priority on
11 the Colorado river of the central Arizona project and other Arizona Colorado
12 river water users, the susceptibility of this state to future shortages of
13 water on the Colorado river is a threat to the general economy and welfare
14 of this state and its citizens.

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

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

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

11 ~~ϕ~~ E. The legislature further finds that for the purposes of this
12 chapter diverting Colorado river water for storage off of the Colorado river
13 system is a consumptive use of that water.

14 ~~θ~~ F. The legislature further finds that water banking is
15 complimentary and compatible with existing water management efforts. The
16 Arizona water banking authority will compliment and assist the activities of
17 the central Arizona water conservation district in its mission to provide a
18 dependable and cost-effective water supply.

19 ~~ϕ~~ G. The legislature therefore finds that it is in the best interest
20 of the general economy and welfare of this state and its citizens to:

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

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

27 3. PROVIDE THE OPPORTUNITY TO FACILITATE THE STORAGE OF WATER AND
28 STORED WATER LENDING ARRANGEMENTS BY ENTITIES IN ARIZONA THAT MAY NOT HAVE
29 THE OPPORTUNITIES OR RESOURCES NEEDED TO STORE WATER.

30 ~~ϕ~~ H. The public policy and general purposes of this chapter are to:

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

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

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

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

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

7 6. PROVIDE THE OPPORTUNITY TO FACILITATE THE STORAGE OF WATER AND
8 STORED WATER LENDING ARRANGEMENTS BY ENTITIES IN ARIZONA THAT MAY NOT HAVE
9 THE OPPORTUNITIES OR RESOURCES NEEDED TO STORE WATER.

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

11 45-2402. Definitions

12 Unless the context otherwise requires, the terms defined in sections
13 45-101, 45-402 and 45-802.01 have the same meaning in this chapter and for
14 purposes of this chapter:

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

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

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

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

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

23 6. "WATER BANKING SERVICES" MEANS SERVICES PROVIDED BY THE AUTHORITY
24 TO PERSONS AND INDIAN COMMUNITIES IN THIS STATE TO FACILITATE FOR THOSE
25 PERSONS AND INDIAN COMMUNITIES STORAGE OF WATER AND STORED WATER LENDING
26 ARRANGEMENTS. WATER BANKING SERVICES INCLUDE ONLY ARRANGEMENTS BY WHICH
27 WATER WILL BE MADE AVAILABLE FOR USE IN THIS STATE. WATER BANKING SERVICES
28 DO NOT INCLUDE INTERSTATE WATER BANKING UNDERTAKEN BY THE AUTHORITY PURSUANT
29 TO ARTICLE 4 OF THIS CHAPTER. WATER BANKING SERVICES MAY INCLUDE:

30 (a) STORAGE OF WATER.

31 (b) OBTAINING WATER STORAGE PERMITS.

32 (c) ACCRUING, EXCHANGING AND ASSIGNING LONG-TERM STORAGE CREDITS.

33 (d) LENDING AND OBTAINING REPAYMENT OF LONG-TERM STORAGE CREDITS.

34 7. "WATER BANKING SERVICES AGREEMENT" MEANS AN AGREEMENT ENTERED INTO
35 BETWEEN THE AUTHORITY AND A PERSON OR INDIAN COMMUNITY IN THIS STATE UNDER
36 WHICH THE AUTHORITY WILL PROVIDE WATER BANKING SERVICES TO THAT PERSON OR
37 INDIAN COMMUNITY.

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

39 45-2423. Powers and duties of authority

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

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

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

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

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

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

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

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

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

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

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

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

23 1. Apply for and hold water storage permits.

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

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

28 4. ENTER INTO WATER BANKING SERVICES AGREEMENTS.

29 5. CHARGE FEES FOR WATER BANKING SERVICES.

30 6. APPLY FOR AND HOLD ANY WATER QUALITY PERMIT REQUIRED FOR WATER
31 STORAGE BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER TITLE 49, CHAPTER
32 2, ARTICLE 3 OR BY FEDERAL LAW.

33 ~~4~~ 7. Make and execute all contracts, including intergovernmental
34 agreements pursuant to title 11, chapter 7, article 3, that shall be signed
35 by the chairperson, or in the chairperson's absence the vice-chairperson, and
36 attested by the secretary, necessary to:

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

40 (b) OBTAIN EFFLUENT FOR STORAGE BUT ONLY AFTER THE AUTHORITY HAS
41 STORED ALL AVAILABLE EXCESS CENTRAL ARIZONA PROJECT WATER OR WHEN CENTRAL
42 ARIZONA PROJECT WATER IS OTHERWISE UNAVAILABLE OR UNDELIVERABLE.

43 ~~(b)~~ (c) Affiliate water storage permits held by the authority with
44 storage facility permits.

- 1 ~~(c)~~ (d) Store Colorado river water at permitted storage facilities.
2 ~~(d)~~ (e) Distribute long-term storage credits earned by the authority
3 to make water available to municipal and industrial users of Colorado river
4 water in this state that are inside or outside of the CAWCD service area, in
5 accordance with the provisions of this chapter.
6 ~~(e)~~ (f) Store Colorado river water in Arizona on behalf of
7 appropriately authorized agencies in California and Nevada.
8 ~~(f)~~ (g) Cause a decrease in Arizona diversions from the Colorado
9 river, ensuring that Arizona will use less than its full entitlement to
10 Colorado river water in years in which California and Nevada agencies are
11 contractually authorized to call on the water stored on their behalf by the
12 authority.
13 ~~(g)~~ (h) Distribute long-term storage credits earned by the authority
14 on behalf of agencies in California and Nevada to Colorado river water users
15 in Arizona to use in place of Colorado river water that would have otherwise
16 been used by those Arizona users.
17 ~~5-~~ 8. Sue and be sued.
18 ~~6-~~ 9. Perform all other acts necessary for the authority to carry out
19 its purposes, powers and duties in accordance with this chapter.
20 ~~7-~~ 10. Submit a request for a general fund appropriation to the
21 legislature each year. A request shall be accompanied by a budget detailing
22 how the appropriation would be used and justifying the need for the
23 appropriation.
24 11. FORM TEMPORARY COMMITTEES AS DEEMED NECESSARY BY THE AUTHORITY TO
25 PROVIDE THE AUTHORITY WITH ADVICE ON ISSUES IDENTIFIED BY THE AUTHORITY.
26 ADVISORY COMMITTEES MAY CONSIST OF MEMBERS OF THE PUBLIC SELECTED BY THE
27 AUTHORITY, MEMBERS OF THE AUTHORITY AND AUTHORITY STAFF.
28 Sec. 4. Section 45-2425, Arizona Revised Statutes, is amended to read:
29 45-2425. Arizona water banking fund
30 A. The Arizona water banking fund is established. The state treasurer
31 shall establish subaccounts of the banking fund based on funding sources.
32 The authority shall administer the BANKING fund in accordance with this
33 chapter.
34 B. The banking fund consists of all of the following:
35 1. Monies appropriated from the state general fund by the legislature.
36 2. Reimbursement for the distribution of long-term storage credits,
37 collected by the authority in accordance with section 45-2457, subsection B,
38 paragraph 2.
39 3. Monies paid to the authority by the recipients of in lieu water at
40 a groundwater savings facility, in accordance with section 45-2455,
41 subsection C.
42 4. Monies collected in accordance with section 45-611, subsection C,
43 paragraph 3.

1 5. Monies deposited in the BANKING fund in accordance with section
2 48-3715.03, subsection B.

3 6. Monies paid to the authority by agencies that have entered into
4 interstate WATER banking agreements with the authority in accordance with
5 section 45-2471.

6 7. MONIES PAID TO THE AUTHORITY BY PERSONS AND INDIAN COMMUNITIES IN
7 THIS STATE THAT HAVE ENTERED INTO WATER BANKING SERVICES AGREEMENTS WITH THE
8 AUTHORITY IN ACCORDANCE WITH SECTION 45-2458.

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

12 D. Monies in the banking fund are exempt from lapsing under section
13 35-190. Interest earned on monies in the banking fund shall be credited to
14 the banking fund.

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

18 Sec. 5. Section 45-2426, Arizona Revised Statutes, is amended to read:
19 45-2426. Annual report

20 A. The commission shall make and submit to the governor, president of
21 the senate and speaker of the house of representatives on or before July 1
22 of each year a report containing a full and complete account of its
23 transactions and proceedings for the preceding calendar year.

24 B. The report shall contain all of the following:

25 1. An accounting of all monies expended from the banking fund.

26 2. An accounting of all monies in the banking fund remaining available
27 to the authority.

28 3. The amount of water stored by the authority.

29 4. The number of long-term storage credits distributed or extinguished
30 by the authority.

31 5. The purposes for which long-term storage credits were distributed
32 or extinguished by the authority.

33 6. A DESCRIPTION OF THE WATER BANKING SERVICES AND INTERSTATE WATER
34 BANKING TO BE UNDERTAKEN BY THE AUTHORITY DURING THE FOLLOWING TEN YEAR
35 PERIOD, AND A PROJECTION OF THE CAPACITY OF THE AUTHORITY DURING THAT PERIOD
36 TO UNDERTAKE THOSE ACTIVITIES IN ADDITION TO STORING COLORADO RIVER WATER
37 BROUGHT INTO THE STATE THROUGH THE CENTRAL ARIZONA PROJECT FOR ALL OF THE
38 FOLLOWING PURPOSES:

39 (a) PROTECTING THIS STATE'S MUNICIPAL AND INDUSTRIAL WATER USERS
40 AGAINST FUTURE WATER SHORTAGES ON THE COLORADO RIVER AND DISRUPTIONS OF
41 OPERATION OF THE CENTRAL ARIZONA PROJECT.

42 (b) FULFILLING THE WATER MANAGEMENT OBJECTIVES OF THIS STATE AS SET
43 FORTH IN CHAPTER 2 OF THIS TITLE.

1 (c) MAKING WATER AVAILABLE TO IMPLEMENT THE SETTLEMENT OF WATER RIGHTS
2 CLAIMS BY INDIAN COMMUNITIES WITHIN THIS STATE.

3 ~~6.~~ 7. Any other matter determined by the authority to be relevant to
4 the policy and purposes of this chapter.

5 Sec. 6. Section 45-2427, Arizona Revised Statutes, is amended to read:
6 45-2427. Limitation on powers

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

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

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

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

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

20 D. THE AUTHORITY SHALL NOT ENTER INTO WATER BANKING SERVICES
21 AGREEMENTS THAT WILL PROVIDE WATER FOR USE OUTSIDE THIS STATE. THE AUTHORITY
22 MAY CANCEL ANY WATER BANKING SERVICES AGREEMENT WITHOUT PENALTY OR FURTHER
23 OBLIGATION IF AFTER ENTERING INTO A WATER BANKING SERVICES AGREEMENT, THE
24 AUTHORITY FINDS THAT THE AGREEMENT WILL PROVIDE WATER FOR USE OUTSIDE OF THIS
25 STATE. NOTICE OF THIS SUBSECTION SHALL BE INCLUDED IN EVERY WATER BANKING
26 SERVICES AGREEMENT ENTERED INTO BY THE AUTHORITY. THE CANCELLATION UNDER
27 THIS SUBSECTION SHALL BE EFFECTIVE WHEN WRITTEN NOTICE FROM THE AUTHORITY IS
28 RECEIVED BY ALL OTHER PARTIES TO THE WATER BANKING SERVICES AGREEMENT.

29 Sec. 7. Section 45-2456, Arizona Revised Statutes, is amended to read:
30 45-2456. Annual plan of operation

31 A. By January 1 of each year, the authority shall adopt a plan of
32 operation for that calendar year.

33 B. In developing the plan of operation, the authority shall consider
34 all of the following:

35 1. The amount of Colorado river water available for storage.

36 2. The advice of the department of water resources regarding where
37 water storage would most contribute to fulfilling the water management
38 objectives set forth in chapter 2 of this title.

39 3. The advice of CAWCD regarding the amount and location of water
40 delivery and storage that is feasible.

41 4. The respective costs of storing water at available storage
42 facilities.

43 5. The amount of storage allowed by water storage permits held by the
44 authority.

1 6. The monies available from the banking fund.

2 7. The way in which water stored could be used by the authority to
3 achieve the policy and purposes of this chapter.

4 8. THE OBLIGATIONS OF THE AUTHORITY UNDER ANY WATER BANKING SERVICES
5 AGREEMENT INTO WHICH THE AUTHORITY HAS ENTERED.

6 ~~8.~~ 9. Any other factor the authority determines to be relevant.

7 C. The authority shall prepare a draft plan of operation each year.
8 The authority shall solicit public comment on the draft plan of operation by
9 presenting the draft plan of operation:

10 1. To the groundwater users advisory councils for the Tucson, Phoenix
11 and Pinal active management areas. The presentation shall be made at
12 publicly noticed open meetings of each advisory council at which members of
13 the public shall be allowed to comment on the draft plan of operation.

14 2. If any water storage during the year is to occur outside of an
15 active management area, to the county board of supervisors for each county
16 in which the storage is to occur. The presentation shall be made at a
17 publicly noticed open meeting of the county board of supervisors at which
18 members of the public shall be allowed to comment on the draft plan of
19 operation.

20 D. The authority may revise the draft plan of operation based on the
21 public comment received.

22 E. An adopted plan of operation shall include all of the following:

23 1. A projection of expenditures for acquiring water.

24 2. A projection of the amount of water to be acquired each month by
25 the authority.

26 3. A projection of the cost of delivering that water through the
27 central Arizona project to a storage facility, including fees for the
28 operation, maintenance, pumping energy and capital costs of the central
29 Arizona project as established by CAWCD.

30 4. A projection of expenditures for water storage.

31 5. A projection of water storage permits to be obtained and a
32 projection of with which storage facility permit each water storage permit
33 will be affiliated.

34 6. A projection of the amount of water to be stored, accounted for by
35 active management area, and if water storage will occur outside of an active
36 management area, by groundwater basin or subbasin.

37 7. A projection of long-term storage credits that will be distributed
38 or extinguished, accounted for by location where the long-term storage
39 credits were stored, the purpose for which the distribution or extinguishment
40 will occur and the persons to whom the long-term storage credits will be
41 distributed.

42 8. A PROJECTION OF LONG-TERM STORAGE CREDITS THAT WILL BE STORED,
43 LOANED, REPLACED OR DISTRIBUTED PURSUANT TO ANY WATER BANKING SERVICES
44 AGREEMENT INTO WHICH THE AUTHORITY HAS ENTERED.

1 ~~E~~. 9. Any other matter determined to be relevant by the authority.

2 F. The authority may modify an adopted plan of operation.

3 G. The authority shall operate in accordance with its adopted or
4 modified plan of operation.

5 Sec. 8. Section 45-2457, Arizona Revised Statutes, is amended to read:
6 45-2457. Accounting; rules of operation.

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

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

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

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

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

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

25 (ii) The authority collects reimbursement for the cost to the
26 authority of replacing the long-term storage credits distributed. THE
27 AUTHORITY MAY REPLACE THE LONG-TERM STORAGE CREDITS IN ANY YEAR IT DEEMS
28 APPROPRIATE BUT SHALL USE GOOD FAITH EFFORTS TO REPLACE THE LONG-TERM STORAGE
29 CREDITS AT A REASONABLE COST TO THE PERSON WHO IS RESPONSIBLE FOR REIMBURSING
30 THE AUTHORITY FOR THE CREDITS DISTRIBUTED.

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

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

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

39 (iii) The authority collects reimbursement from CAWCD for the cost to
40 the authority of replacing the long-term storage credits distributed. THE
41 AUTHORITY MAY REPLACE THE LONG-TERM STORAGE CREDITS IN ANY YEAR IT DEEMS
42 APPROPRIATE BUT SHALL USE GOOD FAITH EFFORTS TO REPLACE THE LONG-TERM STORAGE
43 CREDITS AT A REASONABLE COST TO CAWCD.

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

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

7 5. The authority may exchange long-term storage credits accrued with
8 general fund appropriations for long-term storage credits held by other
9 persons if the long-term storage credits received by the authority were
10 stored in a location that better enables the authority to fulfill the
11 purposes and policies of this chapter than were the long-term storage credits
12 exchanged by the authority. For the purposes of this paragraph, the
13 authority may make exchanges of long-term storage credits stored in one
14 active management area for long-term storage credits stored in a different
15 active management area or of long-term storage credits stored in one
16 groundwater basin for long-term storage credits stored in a different
17 groundwater basin.

18 6. The authority shall distribute or extinguish long-term storage
19 credits accrued with monies collected in accordance with section 45-611,
20 subsection C, paragraph 3 only for the benefit of the active management area
21 in which the monies were collected. The authority may distribute or
22 extinguish these long-term storage credits to implement the settlement of
23 water right claims by Indian communities in this state or, on request from
24 the director, to meet the water management objectives set forth in chapter
25 2 of this title.

26 7. The authority shall distribute long-term storage credits accrued
27 with monies deposited in the fund in accordance with section 48-3715.03,
28 subsection B only for the benefit of the county in which the monies were
29 collected. The authority shall distribute these long-term storage credits
30 to CAWCD to the extent necessary to meet the demands of CAWCD's municipal and
31 industrial subcontractors during times in which CAWCD's diversions from the
32 Colorado river have been or will be disrupted by shortages on the Colorado
33 river or by disruptions in operation of the central Arizona project.

34 8. FOR EACH COUNTY WITHIN THE CAWCD SERVICE AREA, ON A DETERMINATION
35 BY THE AUTHORITY THAT THE NUMBER OF LONG-TERM STORAGE CREDITS ACCRUED WITH
36 MONIES DEPOSITED IN THE FUND IN ACCORDANCE WITH SECTION 48-3715.03,
37 SUBSECTION B EXCEEDS THE NEEDS SPECIFIED IN PARAGRAPH 7 FOR THAT COUNTY, THE
38 AUTHORITY SHALL DISTRIBUTE THOSE EXCESS LONG-TERM STORAGE CREDITS TO
39 MUNICIPAL WATER PROVIDERS WITHIN THAT COUNTY THAT ARE AT THE TIME OF
40 DISTRIBUTION EXPERIENCING SURFACE WATER SUPPLY SHORTAGES NOT ASSOCIATED WITH
41 THE CENTRAL ARIZONA PROJECT. THE AUTHORITY SHALL DISTRIBUTE TO EACH SUCH
42 MUNICIPAL WATER PROVIDER THE LESSER OF THE FOLLOWING NUMBER OF LONG-TERM
43 STORAGE CREDITS:

1 (a) THE TOTAL NUMBER OF CREDITS DETERMINED TO BE AVAILABLE BY THE
2 AUTHORITY UNDER THIS PARAGRAPH MULTIPLIED BY THE PERCENTAGE PRODUCED BY
3 DIVIDING A NUMERATOR EQUALING THE AMOUNT OF REVENUES PAID PURSUANT TO SECTION
4 48-3715.02, SUBSECTIONS B AND C BY TAXPAYERS THAT ARE WITHIN BOTH THE
5 BOUNDARIES OF THE MUNICIPAL PROVIDER THAT IS EXPERIENCING THE SHORTAGE AND
6 THE BOUNDARIES OF THE SURFACE WATER SUPPLY SYSTEM THAT IS EXPERIENCING THE
7 SHORTAGE BY A DENOMINATOR EQUALING THE TOTAL REVENUES PAID PURSUANT TO
8 SECTION 48-3715.02, SUBSECTIONS B AND C BY ALL TAXPAYERS THAT ARE LOCATED
9 WITHIN BOTH THE BOUNDARIES OF A MUNICIPAL WATER PROVIDER AND THE BOUNDARIES
10 OF A SURFACE WATER SUPPLY SYSTEM IN THE COUNTY. IN MAKING THESE
11 COMPUTATIONS, THE AUTHORITY SHALL USE THE AMOUNTS OF REVENUE PAID BY
12 TAXPAYERS DURING THE MOST RECENT TAX YEAR FOR WHICH THIS INFORMATION IS
13 AVAILABLE.

14 (b) TWENTY PER CENT OF THE TOTAL SURFACE WATER SHORTAGE THAT THE
15 MUNICIPAL AND INDUSTRIAL WATER PROVIDER IS EXPERIENCING.

16 9. THE AUTHORITY SHALL DISTRIBUTE OR REPLACE LONG-TERM STORAGE CREDITS
17 ACCRUED WITH MONIES COLLECTED PURSUANT TO WATER BANKING SERVICES AGREEMENTS
18 IN ACCORDANCE WITH THE TERMS OF THOSE AGREEMENTS.

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

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

26 Sec. 9. Title 45, chapter 14, article 3, Arizona Revised Statutes, is
27 amended by adding section 45-2458, to read:

28 45-2458. Water banking services agreements

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

32 1. THE PERSON OR INDIAN COMMUNITY COULD HAVE LEGALLY OBTAINED THE
33 WATER THAT WAS STORED TO ACCRUE THE LONG-TERM STORAGE CREDITS THAT WILL BE
34 LOANED UNDER THE AGREEMENT, COULD HAVE ACCRUED, IN ACCORDANCE WITH CHAPTER
35 3.1 OF THIS TITLE, THE LONG-TERM STORAGE CREDITS THAT WILL BE LOANED AND
36 COULD OTHERWISE LEGALLY STORE WATER IN ACCORDANCE WITH THE LAWS OF THIS
37 STATE.

38 2. THE AGREEMENT REQUIRES THE PERSON OR INDIAN COMMUNITY TO PAY THE
39 AUTHORITY ALL COSTS INCURRED BY THE AUTHORITY IN ACCRUING THE LONG-TERM
40 STORAGE CREDITS TO BE LOANED UNDER THE AGREEMENT.

41 3. THE AGREEMENT REQUIRES THAT THE COSTS PRESCRIBED BY PARAGRAPH 2 OF
42 THIS SUBSECTION FOR EACH LONG-TERM STORAGE CREDIT TO BE LOANED UNDER THE
43 AGREEMENT ARE TO BE PAID TO THE AUTHORITY BEFORE THE AUTHORITY DISTRIBUTES
44 THE CREDITS PURSUANT TO THE AGREEMENT.

1 4. THE AGREEMENT REQUIRES THE PERSON OR INDIAN COMMUNITY TO REIMBURSE
2 THE AUTHORITY FOR THE COSTS OF REPLACING EACH LONG-TERM STORAGE CREDIT LOANED
3 UNDER THE AGREEMENT, TO THE EXTENT THAT COST EXCEEDS THE AMOUNT PAID IN
4 ACCORDANCE WITH PARAGRAPH 3 OF THIS SUBSECTION.

5 5. THE AGREEMENT REQUIRES THE AUTHORITY TO USE GOOD FAITH EFFORTS TO
6 REPLACE THE LONG-TERM STORAGE CREDITS AT A REASONABLE COST TO THE PERSON OR
7 INDIAN COMMUNITY.

8 6. THE AGREEMENT REQUIRES THAT IF THE AUTHORITY IS UNABLE TO REPLACE
9 THE LONG-TERM STORAGE CREDITS FOR ANY REASON DURING THE TEN YEARS FOLLOWING
10 THE DISTRIBUTION OF THE CREDITS, THE PERSON OR INDIAN COMMUNITY SHALL NOT BE
11 EXCUSED FROM REIMBURSING THE COSTS SPECIFIED IN PARAGRAPH 4 OF THIS
12 SUBSECTION, AND THE PERSON OR INDIAN COMMUNITY SHALL PAY TO THE AUTHORITY AT
13 THE END OF THAT TEN YEAR PERIOD THE APPROXIMATE COST THE AUTHORITY WILL
14 EXPEND IN REPLACING THE CREDITS DISTRIBUTED, LESS THE AMOUNT PAID PURSUANT
15 TO PARAGRAPH 2 OF THIS SUBSECTION.

16 7. THE AGREEMENT MAY PROVIDE THAT, SUBJECT TO APPROVAL BY THE
17 AUTHORITY, THE OTHER PARTY TO THE AGREEMENT MAY ASSIGN TO THE AUTHORITY THE
18 NUMBER OF LONG-TERM STORAGE CREDITS LOANED TO THE PARTY IN LIEU OF THE PARTY
19 PAYING THE COSTS REQUIRED BY PARAGRAPHS 4, 5 AND 6 OF THIS SECTION.

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

24 1. THE PERSON, INDIAN COMMUNITY OR NAMED BENEFICIARY COULD LEGALLY
25 OBTAIN THE WATER THAT THE AUTHORITY WILL STORE UNDER THE AGREEMENT, COULD
26 ACCRUE LONG-TERM STORAGE CREDITS IN ACCORDANCE WITH CHAPTER 3.1 OF THIS TITLE
27 FOR THE WATER TO BE STORED AND COULD OTHERWISE LEGALLY STORE WATER IN
28 ACCORDANCE WITH THE LAWS OF THIS STATE.

29 2. THE AGREEMENT REQUIRES THE PERSON OR INDIAN COMMUNITY ENTERING INTO
30 THE AGREEMENT TO PAY TO THE AUTHORITY ALL COSTS THAT ARE OR WILL BE INCURRED
31 BY THE AUTHORITY IN ENTERING INTO AND EXECUTING ITS OBLIGATIONS UNDER A WATER
32 BANKING SERVICES AGREEMENT.

33 C. IN DETERMINING COSTS OF PERFORMING WATER BANKING SERVICES PURSUANT
34 TO SUBSECTIONS A AND B, THE AUTHORITY MAY INCLUDE THE FOLLOWING COSTS:

35 1. THE COST OF ACQUIRING WATER.

36 2. THE COST OF DELIVERING THAT WATER TO A STORAGE FACILITY, INCLUDING
37 FEES FOR THE OPERATION, MAINTENANCE, PUMPING ENERGY AND CAPITAL COSTS OF THE
38 CENTRAL ARIZONA PROJECT, AS ESTABLISHED BY THE CAWCD, AND OTHER AQUEDUCTS.

39 3. THE COST OF STORING WATER, INCLUDING CONSTRUCTION, OPERATION AND
40 MAINTENANCE COSTS ASSOCIATED WITH USING A STORAGE FACILITY.

41 4. A FEE EQUIVALENT TO THE APPROXIMATE AMOUNT OF ADMINISTRATIVE, LEGAL
42 AND TECHNICAL EXPENSES INCURRED BY THE AUTHORITY IN ENTERING INTO AND
43 EXECUTING ITS OBLIGATIONS UNDER A WATER BANKING SERVICES AGREEMENT.

1 5. ANY ADDITIONAL COSTS THE AUTHORITY DEEMS NECESSARY TO ENTER INTO
2 AND EXECUTE ITS OBLIGATIONS UNDER A WATER BANKING SERVICES AGREEMENT.

3 D. A WATER BANKING SERVICES AGREEMENT SHALL REQUIRE A PERSON ENTERING
4 INTO THE AGREEMENT TO OBTAIN A PERFORMANCE BOND TO ENSURE PAYMENT TO THE
5 AUTHORITY OF ALL MONIES OWED TO THE AUTHORITY UNDER THE AGREEMENT, UNLESS THE
6 PERSON IS AN INDIAN COMMUNITY IN THIS STATE OR A GOVERNMENT ENTITY, POLITICAL
7 SUBDIVISION OR MUNICIPAL CORPORATION ORGANIZED UNDER OR SUBJECT TO THE
8 CONSTITUTION AND LAWS OF THIS STATE. IF THE PERSON ENTERING INTO THE WATER
9 BANKING SERVICES AGREEMENT IS AN INDIAN COMMUNITY IN THIS STATE OR A
10 GOVERNMENT ENTITY, POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION ORGANIZED
11 UNDER OR SUBJECT TO THE CONSTITUTION AND LAWS OF THIS STATE, THE BANKING
12 SERVICES AGREEMENT MAY REQUIRE THAT PERSON TO OBTAIN A PERFORMANCE BOND TO
13 ENSURE PAYMENT TO THE AUTHORITY OF ALL MONIES OWED TO THE AUTHORITY UNDER THE
14 AGREEMENT.

15 Sec. 10. Section 48-3715, Arizona Revised Statutes, is amended to
16 read:

17 48-3715. Tax levy

18 A. On or before the second Monday in August of each year, the clerk
19 of the county board of supervisors of each county within the district shall
20 certify to the district board the total assessed valuation of all taxable
21 property in the county. On or before the third Monday in August of each
22 year, the district board shall fix the amount to be raised by direct taxation
23 for the purpose of carrying out the provisions of this chapter, and shall
24 levy a tax sufficient to raise such amount. Such tax shall not exceed ten
25 cents on each one hundred dollars of assessed valuation in the district. The
26 district board shall forthwith certify such tax rate to the board of
27 supervisors of each county within the district, which boards at the time of
28 levying general county taxes shall levy and cause to be collected taxes on
29 the taxable property within such county at the tax rate fixed by the district
30 board. The tax when collected shall be paid to the state treasurer and be
31 credited to the district fund to be expended by the district only for
32 purposes authorized by this chapter, which shall include costs and expenses
33 of administration.

34 B. The district board shall charge and collect a fee in lieu of taxes
35 paid pursuant to subsection A for each acre-foot of central Arizona project
36 water purchased or leased and delivered to or credited to a purchaser or
37 lessee. The amount of this fee shall be computed by dividing the sum of the
38 taxes levied in each county within the district pursuant to subsection A in
39 the PREVIOUS year in which the fee is charged by the AVERAGE ANNUAL amount
40 of Colorado river water ~~available for diversion into the central Arizona~~
41 ~~project as determined by the secretary during that year~~ DELIVERED THROUGH THE
42 CENTRAL ARIZONA PROJECT SYSTEM FOR NONFEDERAL MUNICIPAL AND INDUSTRIAL AND
43 AGRICULTURAL USE OVER THE PREVIOUS THREE YEARS. This fee does not apply to:

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

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

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

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

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

~~APPROVED BY THE GOVERNOR APRIL 1, 1999~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 1999~~

Arizona Water Banking Authority

Annual Report 1998

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

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Arizona Water Banking Authority

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June 30, 1999

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 third Annual Report describing the operation of the Arizona Water Banking Authority ("AWBA") for calendar year 1998 which has been prepared in compliance with Arizona Revised Statutes § 45-2426 (Supp. 1997). The Report includes the amount of water stored by the AWBA, an accounting of all monies expended from the banking fund, and remaining funds available to the AWBA. The Report also provides updated information about the AWBA and an overview of the significant achievements of the past year.

During 1998, the AWBA members and staff also participated in the AWBA's Study Commission meetings which made recommendations about the AWBA's future powers and duties, which may include lending long-term storage credits, recharging effluent when Central Arizona Project (CAP) water is unavailable, providing water banking services directly for Arizona entities, and firming water supplies for non-CAP municipal and industrial water service providers within the CAP service area to protect against non-CAP water shortages.

The AWBA recharged approximately 220,000 acre feet of water in 1998 through indirect recharge with seven irrigation districts as partners and through direct recharge at four underground storage facilities in Maricopa and Pima Counties. The AWBA expects to add new irrigation district partners and to store water at additional underground storage facilities in 1999.

1998 was a highly successful year for the AWBA. I continue to be proud of its accomplishments and goals and am confident that the AWBA will continue to serve as a critical tool to achieve Arizona's water policy goals.

Sincerely,

Rita P. Pearson, Chairman
Arizona Water Banking Authority



Rita Pearson, Director of the Arizona Department of Water Resources and Chairman of the Arizona Water Banking Authority

Message from the Chairman of the Arizona Water Banking Authority

I am pleased to be provided with the opportunity to comment on the progress and the future of the Arizona Water Banking Authority.

1998 has been a tremendous year for the AWBA. The AWBA has continued to recharge water that would have otherwise gone unused by Arizona and at the same time replenishing aquifers and providing surface water alternatives to groundwater pumping. The AWBA stored water at seven groundwater savings facilities and began storing water at two new underground storage facilities in the Tucson Active Management area. All in all, the AWBA recharged approximately 220,000 acre feet of water in 1998.

One of the most exciting developments in 1998 was the work completed by the Arizona Water Banking Authority Study Commission. 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 was broken down into five subcommittees to focus in more detail on additional water management opportunities available to the AWBA. The AWBA staff assisted the Study Commission by participating in subcommittee meetings and by assisting in the drafting of the subcommittee reports to the full Study Commission. The Study Commission's efforts resulted in numerous recommendations, including recommendations for legislative changes submitted to the Arizona Legislature in bill form (House Bill 2463) in December 1998.

At the end of 1997, the United States Department of the Interior released its draft interstate water banking rules which will someday enable Arizona to store its excess Colorado River water for use in Nevada and California. Throughout 1998, the AWBA and the ADWR provided extensive comments on the rules and raised several concerns. As of December 31, 1998, the proposed rule was still in draft form, and as such, no interstate water banking negotiations with Nevada or California have taken place. When the federal government finalizes the rule, and if the key portions of the rule meet with the ADWR Director's approval, the AWBA will commence discussions with our neighboring states to explore the possibility of interstate water banking.

When the AWBA was created in 1996, one of the policy goals was to enable it to assist in the settlement of Indian water rights. At the end of 1998, the AWBA focused much of its attention on ongoing Indian water rights settlement discussions. The AWBA may be able to assist in the settlement of disputes over water rights by "firming" a fixed quantity of Central Arizona Project water to guarantee supplies to Indian tribes.

In 1998, the AWBA has made great strides toward achieving all of its goals. The AWBA reflects Arizona's commitment to sound water policy. The AWBA provides Arizonans with added peace of mind that steps have been taken to ensure their high quality of life well into the future.

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

Members¹



RITA P. PEARSON - In March of 1993, Governor Symington appointed Rita Pearson Director of the Arizona Department of Water Resources. By statute, the Director also serves as Chairperson of the Arizona Water Banking Authority. Ms. Pearson also chaired the Arizona Water Banking Authority Study Commission.



GRADY GAMMAGE, JR.- Mr. Gammage serves as a member of the Arizona Water Banking Authority in his capacity as President of the Central Arizona Water Conservation District (CAWCD). Mr. Gammage founded the law firm of Gammage & Burnham in 1983, specializing in land use and real estate development.



THOMAS E. (TOM) GRIFFIN - Mr. Griffin was appointed to the Authority by Governor Symington in July 1996 as a representative of the communities along the Colorado River. Mr. Griffin served as Vice-Chairman of the Arizona Water Banking Authority and also served as Chairman of the AWBA Study Commission's subcommittee on Issues Outside the CAP Service Area. In 1985, he founded and still operates The Planning Group, a planning and development consulting firm in Arizona, California, and Nevada.

¹ Full biographies of the members are available on the AWBA web page at <http://www.awba.state.az.us>.



WILLIAM L. CHASE, JR. - Mr. Chase was appointed to the Authority by Governor Symington in 1996 representing an entity that holds a Central Arizona Project Municipal and Industrial contract. Mr. Chase served as Secretary of the Arizona Water Banking Authority. Since December 1980, Mr. Chase has served as the Water Advisor for the City of Phoenix.



RICHARD S. WALDEN - Mr. Walden was appointed to the Authority in July 1996 by Governor Symington as a person knowledgeable in water resource management. He currently serves as President and Chief Executive Officer of Farmers Investment Company in Sahuarita, Arizona.

Arizona Water Banking Authority

*Ex-officio, Non-voting Members*¹



THE HONORABLE GAIL GRIFFIN - Representative Griffin was appointed as an *ex officio* member of the Arizona Water Banking Authority by Speaker of the Arizona House of Representatives Jeff Groskost. Ms. Griffin represents Legislative District 8 and serves as co-chairman of the House Natural Resources and Agriculture committee and as a member of the House Commerce, Environment and Government Operations committees. Ms. Griffin has lived in Arizona for almost 30 years and is a licensed real estate broker at Sierra Vista Realty.



THE HONORABLE PAT CONNER - Senator Conner was appointed as an *ex officio* member of the Arizona Water Banking Authority by Arizona Senate President Brenda Burns. Mr. Conner represents Legislative District 5 and served on the Senate Appropriations Committee, Senate Commerce & Economic Development Committee (as Vice Chairman), Senate Judiciary Committee, and Senate Natural Resources, Agriculture & Environment Committee (Chairman). Senator Conner is a native of Arizona and is involved in real estate and investments in the Yuma area and owns Soft Cloth Car Washes.

¹ More information on the Arizona Legislature is available at: <http://www.azleg.state.az.us>.

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 *Update*

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 does not substitute for existing uses or storage of Colorado River water by entities in Arizona but utilizes 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 participating in recharge either at underground storage facilities or groundwater savings facilities. Representatives from California and Nevada have attended several of these AWBA meetings, and possible future interstate water banking continues to be a topic of discussion.

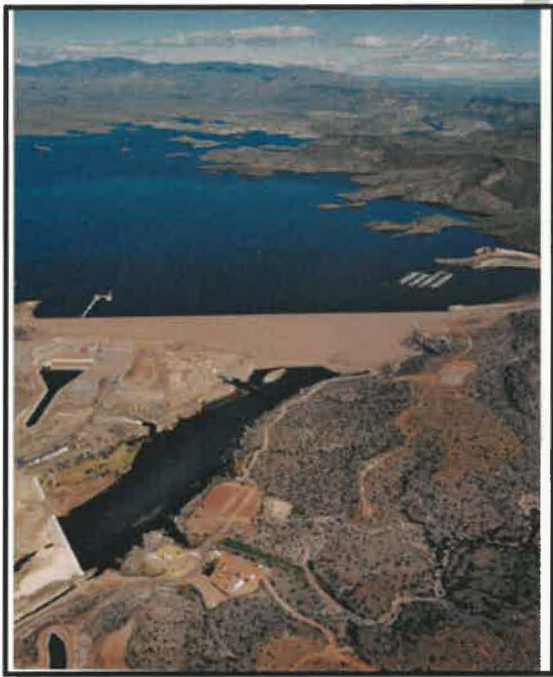
The AWBA members and staff meet annually with all current and potential recharge entities in developing the Annual Plan of Operation. These entities include the Salt River Project (SRP), the CAP, and all permitted irrigation districts in Maricopa, Pinal, and Pima counties. All potential recharge opportunities 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 Active Management Area (AMA) and county and the amount of funds generated monthly in each AMA and county to keep monies in the AMA or county of generation.

The AWBA recharged approximately 330,000 acre feet of CAP water in 1997 and approximately 220,000 acre feet in 1998. Total consumptive use by Arizona for 1997 was approximately 2.7 million acre feet, including: 1.38 million acre feet Colorado River uses along the Colorado River; CAP subcontractor deliveries of an estimated 975,000 acre feet, including municipal and industrial, Indian, Agricultural Pools 1, 2, and 3, and incentive recharge water; and approximately 330,000 acre feet for recharge by the AWBA. Total consumptive use by Arizona for 1998 was approximately 2.46 million acre feet, including: 1 million acre feet Colorado River uses along the Colorado River; CAP subcontractor deliveries of an estimated 1.23 million acre feet, including municipal and industrial, Indian, Agricultural Pools 1, 2, and 3, and incentive recharge water; and approximately 220,000 acre feet of recharge by the AWBA. The AWBA expects to recharge approximately 307,000 acre feet of water in 1999.

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 Arizona Water Banking Authority, please consult our web page at <http://www.awba.state.az.us>, or contact Tim Henley (tjhenley@adwr.state.az.us) or Kim Kunasek (kskunasek@adwr.state.az.us) at (602)417-2418.

In a **groundwater savings facility**, Colorado River water is delivered from the Central Arizona Project via smaller canals to irrigate crops leaving precious groundwater in the ground. About 50% of AWBA long-term storage credits have been developed at groundwater savings facilities such as the one pictured below.



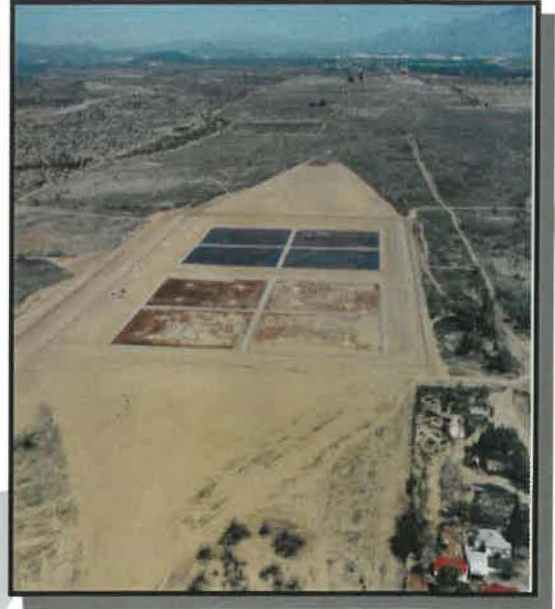
New Waddell Dam, pictured above, is operated by the Central Arizona Water Conservation District (CAWCD). The CAWCD provides operational support for the AWBA. New Waddell Dam is key to the CAWCD's ability to operate the CAP system.

Underground Storage Facilities

The CAWCD provides operational support to the AWBA and also operates two recharge facilities used by the AWBA for water storage.

The **Pima Mine Road Recharge Facility (PMR)**, located in the Tucson AMA, consists of approximately fourteen acres of spreading basins divided into eight cells or spreading basins (which resemble shallow ponds) that can be operated individually. Raw CAP water is delivered from the CAP aqueduct to the recharge basins via a conveyance pipeline to these spreading basins, and the water is allowed to seep into the ground. The water penetrates many layers of soils and ultimately reaches the underground aquifer.

The AWBA recharged 1,859 acre feet of CAP water at PMR in 1998 and plans to store up to 5,000 acre feet there in 1999.



Pima Mine Road Recharge Facility

Owned and operated by the
Central Arizona Project



Avra Valley Recharge Project

Owned and Operated by the
Central Arizona Project

The **Avra Valley Recharge Project**, located in the Tucson AMA, consists of approximately eleven acres of spreading basins which are divided into four cells which can be operated individually.

The AWBA recharged 2,739 acre feet of CAP water at AVR in 1998 and plans to recharge 6,400 acre feet in 1999.

Arizona Water Banking Authority
Activities and Projects
1998

Below is a summary of significant events in the Arizona Water Banking Authority in 1998.

I. The Arizona Water Banking Authority Study Commission

Background

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 consisted of all five AWBA members and its two *ex officio* members plus nine people appointed by the Director of the Arizona Department of Water Resources (ADWR). The Study Commission was broken down into five subcommittees to focus in more detail on additional water management opportunities available to the AWBA. The AWBA staff assisted the Study Commission by participating in subcommittee meetings and by assisting in the drafting of the subcommittee reports to the full Study Commission.

Subcommittees

The Study Commission was comprised of five subcommittees: the Planning and Modeling Subcommittee, the Taxation and Finance Subcommittee, the Interstate and Intrastate Water Banking and Marketing Issues Subcommittee, the Water Banking Benefits Outside the CAP Service Area Subcommittee, and the Indian Issues Subcommittee.

The **Planning and Modeling Subcommittee** was formed to develop a consistent set of water planning assumptions to evaluate the availability of water supply to meet demands in order to best address the opportunities for additional water banking uses and Indian communities' participation in water banking. These assumptions were used in the Colorado River System Simulation (CRSSez) model to quantify the potential future shortages of water that may occur for existing municipal and industrial CAP subcontractors and others. The potential shortages represent the amount of water that must be banked to firm long-term water supplies. The output from the model also quantifies the potential amount of water that is surplus to the projected annual demands and is consequently available for banking purposes.

The **Taxation and Finance Subcommittee** investigated the funding mechanisms available to the AWBA under its current statutory authorities. AWBA staff prepared preliminary projections of the revenues expected from these sources and compared those revenues with the potential needs to accomplish currently authorized purposes. The subcommittee was required to consider whether the mechanism for the tax collected pursuant to A.R.S. §48-3715.02 (four cent *ad valorem* tax in

Maricopa, Pinal, and Pima Counties) was satisfactory and whether the tax provision should be continued as currently drafted. It also considered whether charges for the AWBA's interstate banking services should require out of state entities to

participate in storage and recovery options that are most compatible with Arizona's groundwater management objectives, even if those options are more costly, and how to determine any fees in lieu of taxes that out of state entities would be required to pay for water storage in Arizona.

"The efforts and results of the Study Commission are examples of the best kind of public policy development. We had a group of qualified and interested citizens and water professionals working together to develop recommendations as to how to manage a portion of Arizona's valuable water resources."



- Larry Dozier, Chairman
Taxation and Finance Subcommittee



"The Study Commission process was both thought-provoking and focused. The fact that consensus recommendations were adopted by as diverse a group as the Study Commission members with respect to a volatile topic like water policy reflects the effectiveness of the Study Commission process."

- Mark Myers, Chairman
Interstate and Intrastate Water Banking and Marketing Issues Subcommittee

The **Interstate and Intrastate Water Banking and Marketing Issues** subcommittee was charged with evaluating the opportunities for the AWBA to perform additional services that could assist water users in Arizona in meeting their needs for a reliable water supply. The Study Commission determined that a number of opportunities may exist for the AWBA to perform additional services that could assist water users in Arizona in meeting their needs for a reliable water supply. It also recognized that the program for banking water for interstate purposes could potentially be expanded in a variety of ways.

The subcommittee also identified three primary issue areas. It considered whether Arizona and the United States Bureau of Reclamation should develop a policy and process for transferring or leasing entitlements between parties in Arizona (including transfers with Indian tribes), whether the benefits and services provided by the AWBA should be expanded and, if so, which services are most appropriate, and whether the AWBA should be authorized to meet future needs for water supply by using techniques other than the long-term storage credit system.

The **Water Banking Benefits Outside the CAP Service Area** Subcommittee analyzed the additional opportunities for the AWBA to provide benefits and services to those portions of the state that are not a part of the CAP service area. The AWBA's enabling legislation established a role for the AWBA to provide limited banking services for municipal and industrial users of Colorado River water that are outside of the CAP service area. For the purpose of the subcommittee's discussions, the term "outside of the CAP service area" was defined to be those portions of Arizona that could not receive water directly through the CAP delivery system.



“The diversity and quality of the people serving on the Study Commission and subcommittees is shown by the successful results.”

- Tom Griffin, Chairman
Benefits Outside the CAP Service Area Subcommittee

The subcommittee first determined the frequency and magnitude of potential shortages to municipal and industrial water users of Colorado River water who are not Central Arizona Project subcontract holders. It then considered whether the AWBA should be empowered to obtain and make available water supplies to new Colorado River M&I water providers or to supplement the supplies and allocations of existing Colorado River M&I water providers in areas located outside of the CAP service area. The subcommittee examined whether the AWBA should be empowered to store water at recharge sites that do not have direct access to excess CAP water and identified the needs and opportunities for the AWBA to provide assistance for water supply enhancement or drought protection for M&I water users who are neither located within the CAP service area nor located along the Colorado River and whether the AWBA should be empowered to provide water supply enhancement assistance for non-M&I uses within Arizona such as environmental enhancement projects. The subcommittee studied and determined the mechanisms for forbearance and exchange that could be used to deliver AWBA-developed supplies to water users outside of the CAP service area. And finally, the subcommittee considered whether M&I water users located outside of the CAWCD service area who receive credits from the AWBA to offset a water shortage be required to pay to have those credits replaced and whether the reimbursement rate should be equal to what the AWBA *originally* paid for the credits or at the rate in effect at the time the purchase of replacement water is needed.

The **Indian Issues Subcommittee** was formed to consider the opportunities for the AWBA to further involve Indian communities in its water banking activities. The AWBA’s enabling legislation established an important policy for the state by providing that the public policy and general purposes of the laws are to provide the opportunity for storing water brought into Arizona through the CAP to be available to implement the settlement of water right claims by Indian communities within Arizona.

The subcommittee examined the respective water rights and supplies of the Arizona Indian tribes and how will they interact with the AWBA, how the AWBA could assist in achieving implementation of Indian water rights settlements, how the AWBA could provide additional water

“The Study Commission results illustrate the benefits and the future potential when the state and the tribes really work together.”

-Gary Hansen, Co-Chairman
Indian Issues Subcommittee



supplies or marketing services to Indian communities, and finally considered some of the unique challenges facing Indian community participation in AWBA activities.

Final Report

The Study Commission has concluded its activities and completed both a comprehensive Interim Report (November 1997) and a Final Report (November 1998) containing research findings, conclusions, and recommendations regarding the issues it considered. These reports are available on the AWBA's web page (<http://www.awba.state.az.us>).

The Study Commission's final report contains, among other things, recommendations for statutory changes that would confer new powers and duties on the AWBA. If a bill amending the AWBA statutes passes the Arizona Legislature, the AWBA will have several new duties and responsibilities.

First, A.R.S. § 45-2401 would be amended to recognize a need in the future to provide for the efficient use of all water resources in Arizona and the need for a centralized source of water banking services. The bill would also amend A.R.S. §§ 45-2423 to allow the AWBA to perform banking services for specific entities in Arizona and would create a mechanism for distribution of long-term storage credits earned on behalf of specific Arizona entities.

The Interstate Water Banking and Marketing Subcommittee considered that some Arizona entities have expressed an interest in using the AWBA's services to store water they have a legal right to store. While nothing in Title 45 prevents these entities from banking water on their own, the subcommittee's consensus was that it may be more efficient for the AWBA to administer and oversee water banking for individual Arizona entities if they choose to do so.

Second, A.R.S. § 45-2423(B) would be amended to permit the AWBA to store effluent for the same purposes allowed for CAP water but only when all available excess CAP water has been stored or when excess CAP water is not available to the AWBA. In order to maximize efficient water management, when available excess CAP supplies are unavailable, the AWBA should be able to recharge effluent if it is available. Recharging effluent will not, however, take priority over the AWBA's duty to recharge as much CAP water as possible.

Third, A.R.S. § 45-2401 would be amended to state a need to protect non-CAP surface water supplies. The AWBA would have the ability to determine the amount of four-cent tax generated long-term storage credits needed to "firm" supplies for CAP municipal and industrial (M&I) subcontractors, and based on that determination, it could use any "excess" four-cent tax monies to firm supplies for *non*-CAP M&I surface water users (such as the Salt River Project, Maricopa Water Conservation District, and Roosevelt Water Conservation District) within the CAP service area. Under current law, long-term storage credits accrued with four-cent tax revenues can only be used to firm CAP M&I subcontractors' supplies in times of shortage or disruption of the CAP system.

Ideally, non-CAP sources could be protected through the AWBA's water resource management authority.

Fourth, the legislation would create a mechanism for long-term storage credit lending. This would enable the AWBA to loan credits to any Arizona entity for use in Arizona and allows the AWBA to receive reasonable compensation for lending credits. An example of how this function could provide a useful function is for assistance with assured water supply requirements: while these long-term storage credits could not be used to meet a 100-year assured water supply requirement, a quantity of credits could be purchased to help an entity working toward obtaining a 100-year water supply (for example, to meet a five-year supply until the longer-term arrangement is finalized).

Finally, the legislation would require the AWBA to include in each annual report a section that discusses how the previous year's activity fits in with the overall long-term goals of the AWBA. By adding information that projects into the future, the annual report could provide a better long-term projection of AWBA activities over the next ten years and how each year's activities are working toward accomplishing the AWBA's long-term goals. These goals may evolve and change over time, so updating each year will give the public a better grasp of the changing role (if any) of the AWBA.

Other Recommendations

In addition to the legislative changes recommended, the Study Commission also made other policy recommendations.

● Planning & Modeling Subcommittee Recommendations

- Specific modeling assumptions should be used for planning purposes
- Specific quantities of water should be stored to protect against projected shortages
- Criteria for the USBR to adopt for a procedure for determining how shortages to Arizona fourth priority contractors will be shared between CAP contractors and non-CAP contractors
- The method the USBR should use to determine how reduced deliveries to the CAP will be shared between M&I priority subcontractors and Indian priority contractors.

● Taxation & Finance Subcommittee Recommendations

- Current provisions of A.R.S. § 48-3715.02 (tax levied by the CAWCD with revenues spent by the AWBA) should be continued without modification
- Interstate water storage agreements for recharge and recovery should not necessarily reflect the lowest cost options for the participating states but should recognize the need to meet Arizona's groundwater management objectives, including provisions relating to management plans.

- The appropriate in lieu tax charges for interstate banking activities should be based upon the amount of ad valorem taxes paid per acre foot by non-Indian M&I and agricultural water users in the three county CAP service area. The tax collection should be compared to the average delivery over the previous three years.
 - The Arizona Legislature should continue to provide adequate funding to the AWBA program, including the potential for increased levels of funding in the future.
- **Interstate and Intrastate Water Banking and Marketing Issues Subcommittee Recommendations**
 - The ADWR, the USBR, the CAWCD, and the AWBA should, in a coordinate manner, identify and establish policies and procedures regarding transfers and also for transporting non-CAP water through the CAP aqueduct system.
- **Benefits Outside the CAP Service Area Subcommittee Recommendations**
 - The AWBA should adopt a conservative set of water shortage assumptions for planning purposes. Using these conservative assumptions, 575,000 acre feet of long-term storage credits should be reserved by the AWBA for river area M&I water providers.
 - The USBR should clarify the method that will be used for determining how reduced deliveries to non-CAP fourth priority contractors will be shared between M&I and agricultural contractors.
 - The ADWR and the AWBA should work directly with any interested community and with representatives of the Arizona Rural Water Association to consider ways that rural communities can obtain additional water supplies in the future.
 - The AWBA, the CAWCD, and affected communities along the Colorado River should enter into exchange agreements and file notice of those agreements with the ADWR to enable recovery and delivery of banked water to river area communities.
- **Indian Issues Subcommittee Recommendations**
 - In order to best familiarize itself with the wide ranging interests of Indian water rights issues, the AWBA should be updated by the ADWR on the status of Indian water rights settlement negotiations and progress on Indian related issues coming out of the ongoing adjudication process.
 - Water storage and recovery techniques performed by the AWBA can and should be an important component of Indian water rights settlements but should be undertaken on a settlement by settlement basis.
 - Legal questions about marketing Indian water must be explored in more detail

Conclusion

The AWBA's primary function, maximizing use of Arizona's 2.8 million acre foot apportionment of Colorado River water by recharging excess CAP water, will remain its primary function. Most of the new functions discussed above will be entirely discretionary and will only be undertaken if they do not jeopardize the AWBA's ability to recharge excess CAP water to protect Arizonans from water shortages in the future and to help Arizona achieve its groundwater management goals.

II. Other Activities

Facility Plan

AWBA staff completed a Facility Plan for the Tucson Active Management Area. By law, the AWBA must follow a specific process prior to developing its Facility Plan. To develop the final Facility Plan in accordance with A.R.S. § 45-2453, the AWBA considered the amount of additional storage capacity needed to meet the AWBA's needs, consulted with the ADWR with respect to where water storage would most contribute to meeting the water management objectives, considered the advice of CAWCD regarding the feasibility of delivering and storing CAP water at any proposed storage facility; sought the advice of the ADEQ regarding any potential adverse impacts from a proposed storage facility; considered the potential costs to the AWBA of facilitating construction or development of a proposed storage facility and cost-effectiveness of any proposed storage facility; asked the CAWCD whether it or other entities would be willing to construct, maintain, and operate any proposed storage facility; and considered the way in which water stored at a proposed storage facility could be used by the AWBA to achieve policy goals.

The Facility Plan identified the facilities in the Tucson area that could be available to the AWBA to meet its statutory objectives. When developing its annual Plan of Operation, the AWBA determined through a public notice process which facilities would actually be used and the quantity of water to be stored at those facilities.

The Facility Plan is available on the AWBA's web page (<http://www.awba.state.az.us>).

1999 Plan of Operation

The AWBA plans to recharge approximately 307,000 acre feet of water in 1999. The AWBA will recharge approximately 192,000 acre feet at groundwater savings facilities and approximately 115,000 acre feet at underground storage facilities. The AWBA's Plan of Operation anticipates recharging about 8,000 acre feet with two new partners: Vidler Water Company's MBT Ranch Underground Storage Facility in LaPaz County and Kai Farms/Avra Groundwater Savings Facility in the Tucson AMA. The 1999 Plan of Operation is available on the AWBA's web page. For further information on 1998 recharge sites, please see **Appendix 1 at page 22**.

Web Page

The AWBA improved and expanded the information contained on its web page (<http://www.awba.state.az.us>). The web page contains information about the AWBA, the AWBA's recharge partners, monthly updates in graph and table format on water deliveries around the state, announcements from the AWBA, a schedule of upcoming meetings, numerous publications that may be downloaded, links to other water-related sites, and a great deal of other information.

Media Coverage

The AWBA again received considerable press coverage over the past year. The following articles that discussed the AWBA were published in 1998:

"Putting water in the bank," Las Vegas Review-Journal, January 1, 1998.

"One with the River," Las Vegas Review-Journal, March 15, 1998.

"Key benefits of water banking," Parker Pioneer, May 27, 1998, Front Page.

"Water law changes shown to area board," Casa Grande Dispatch, November 11, 1998.

"County Supervisors discuss water banking issues," Parker Pioneer, December 9, 1998.

"Saving for a Dry Day," River Report, Winter 1998.

"Babbitt Stresses Water Use Deal," Las Vegas Review-Journal, December 18, 1998.

The AWBA was discussed frequently during the debate over interstate water banking that arose during the 1998 gubernatorial race.

"Hull denies Nevada influence on water," Tucson Citizen, October 6, 1998.

"Johnson's water charges are wrong," Arizona Daily Star, October 6, 1998.

"Hull not making water-use deals," Mesa Tribune, October 6, 1998.

"Johnson's future floats on water," Arizona Republic, October 6, 1998.

"Johnson's Waterloo?" The New Times, Page 6, October 15-21, 1998.

"A Desperate, Irresponsible Claim," Editorial, Arizona Republic, October 11, 1998.

“Johnson’s noises about Hull’s water theft have no basis,” William H. Swann, Arizona Republic, October 26, 1998.

Indian Reservation Water Banking

AWBA and ADWR staff traveled to and met with representatives from the Tohono O’Odham Nation, the Gila River Indian Community, and the Colorado River Indian Tribes regarding possible future on-reservation water banking. These meetings provided an opportunity to determine the level of interest by the Indian Communities and to better understand the Communities’ concerns and goals. In addition, AWBA and ADWR staff collected hydrologic data and maps and visited the potential underground storage facility sites.

Interstate Water Banking

On December 31, 1997, the United States Bureau of Reclamation (USBR) published a draft rule governing offstream storage of Colorado River Water for the Lower Basin states (Nevada, California, Arizona). The USBR held two public hearings in Ontario, California in February and March to hear interested parties’ concerns. The initial comment period was extended into April 1998. The AWBA and the ADWR submitted extensive comments. After reviewing the comments from numerous entities, the USBR in September reopened the public comment period but restricted those comments to two specific components of the proposed water banking regulations. The AWBA and the ADWR again submitted extensive comments to the narrow portion of the proposed rule (October 1998), but because the rule was not finalized, did not begin interstate water banking negotiations with Nevada and California representatives. The USBR took no further action on finalization of the rule in 1998.

Arizona Water Banking Authority
Monies Expended from the Banking Fund
Calendar Year 1998

Arizona Revised Statutes section 45-2425 established a water banking fund. The Arizona Water Banking Authority administers the fund. Section 45-2425 provides a breakdown of the sources of monies in the banking fund.

The AWBA currently obtains its funding from the following 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 AWBA consequently collects fees for the previous year groundwater pumping in May following submittal of the AMA's groundwater pumping report. *Money from this source must be used for the benefit of the Active Management Area in which it was collected.*
- 2) The CAP receives monies collected from a four cent *ad valorem* property tax levied by the county in the CAP service area to pay for water storage. Please note that the AWBA receives monies collected from the four cent tax in two installments: one payment is due in November of each year, and the AWBA receives these revenues in December; the second is due in April, and the AWBA 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 1998 appropriation amounted to \$2 million. General fund monies are available to the AWBA on a quarterly basis and can be spent throughout the year, but other monies are only available to the AWBA at specific times of the year. *Water stored with these funds may be used to assist communities along the Colorado River, to help Arizona meet its water management objectives, or as a component of an Indian water rights settlement.*

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

Table 1*Monies Collected, Expended, and Available in Banking Fund to Date*

<i>Source & Location</i>	<i>Collected</i>	<i>Expended¹</i>	<i>Available²</i>
General Fund			
Maricopa County	0	1,370,000	0
Pinal County	0	3,066,000	0
Pima County	0	0	0
Sub-Total	5,000,000	4,741,000³	259,000
4¢ Ad Valorem Tax			
Maricopa County	15,747,000	7,480,000	8,267,000
Pinal County	579,000	468,000	111,000
Pima County	3,066,000	817,000	2,249,000
Sub-Total	19,392,000	8,765,000	10,627,000
Groundwater Pumping Fee (collected in 1998 only)			
Phoenix AMA	2,692,000	0	2,692,000
Pinal AMA	1,196,000	0	1,196,000
Tucson AMA	716,000	0	716,000
Sub-Total	4,604,000	0	4,604,000
Administration	1,002,000	707,000	295,000
Grand Total	29,998,000	13,506,000	15,785,000

¹ These numbers represent the actual cost of long-term storage credits developed to date.

² Includes funds remaining in the Water Banking Fund plus a credit with the CAWCD. The credit results from the fact that the AWBA's payment to the CAWCD is based upon an estimated annual use and is not adjusted throughout the year. The CAWCD applies any credit to the following year's estimate.

³ Includes \$305,000 transferred to administration for first two years of operation.

Arizona Water Banking Authority
Long-term Storage Credits

Under A.R.S. § 45-852.01, the ADWR credits 95% of the recoverable amount of stored water that meets the statutory requirements to the storer's long-term storage account. Certain statutory exceptions to the 95% rule are provided. For example, for each 100 acre feet the AWBA recharges (either at groundwater savings facilities or underground storage facilities), the ADWR credits the AWBA's long-term storage account with 95 acre feet of credits. The 5% that is not credited to the AWBA is known as the "cut to the aquifer" and provides additional groundwater replenishment benefits.

Table 2 shows the long-term storage credits earned by the AWBA in each AMA and county to date.

Table 2
Long-Term Storage Credits Accrued
(amounts shown in acre feet)

<i>Source & Location</i>	<i>Credits Accrued¹</i>
General Fund	
Maricopa County	26,794
Pinal County	192,276
Pima County	0
<i>Sub-Total</i>	219,070
4¢ Ad Valorem Tax	
Maricopa County	222,138
Pinal County	25,764
Pima County	14,267
<i>Sub-Total</i>	262,169
Groundwater Pumping Fee	0
<i>Grand Total</i>	481,239

¹ Actual credits accrued in 1997 plus estimated credits accrued in 1998.

Appendix 1

ARIZONA WATER BANKING AUTHORITY
Colorado River Water Deliveries
for Calendar Year 1998

One acre foot = 325,851 gallons

Credits earned by the AWBA are computed by subtracting approximately 3-5% for losses and 5% for a "cut to the aquifer" from the *total annual deliveries*. The figures representing credits earned in each Active Management Area are estimates only. Final figures will become available in mid-1999. Estimates were derived by taking the total amount of water stored and subtracting a five percent "cut to the aquifer" and approximately three percent for water losses.

Phoenix Active Management Area (AMA)

Approximately 122,360 acre feet of credits were developed in the Phoenix AMA with a combination of four cent property taxes collected in Maricopa County for future use by communities in Maricopa County and general fund monies, which 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 in acre feet</i>
Maricopa Water District.....	19,800
Queen Creek Irrigation District (QCID).....	12,086
Granite Reef Underground Storage Project (GRUSP).....	57,896
New Magma Irrigation and Drainage District (NMIDD).....	37,552
Chandler Heights Irrigation District (CHCID).....	88
Total Deliveries in Phoenix AMA.....	127,422

Pinal Active Management Area (AMA)

Approximately 65,320 acre feet of credits were developed in the Pinal AMA with a combination of four cent property taxes collected in Pinal County for future use by communities in Pinal County and general fund monies.

<i>Partner</i>	<i>Water Delivered</i>
Central Arizona Irrigation and Drainage District (CAIDD).....	8,048
Hohokam Irrigation and Drainage District (HIDD).....	38,388
Maricopa-Stanfield Irrigation and Drainage District (MSIDD).....	33,311
Total Deliveries in Pinal AMA.....	79,747

Tucson Active Management Area (AMA)

Approximately 10,120 acre feet 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 Recharge Project (AVRP).....	2,739
Central Avra Valley Storage and Recovery Project (CAVSARP).....	7,465
Pima Mine Road.....	1,859
Total Deliveries in Tucson AMA.....	13,063

Total Water Banking Authority Deliveries.....219,232

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 1998.

Status Report on Arizona Indian Water Rights Settlement Negotiations
Rita Pearson, Director, Arizona Department of Water Resources
May 6, 1999

I. Global CAP Reallocation Negotiations

A. Status: Senator Jon Kyl, Secretary of the Interior Bruce Babbitt and myself have been negotiating an agreement between state water parties and the Department of the Interior regarding the reallocation of 200,000 acre feet of non-Indian agricultural (NIA) priority CAP water to be used for Indian water rights settlements. Frequent negotiating sessions have been held over the past six months in Phoenix and Washington. Critical issues under discussion include:

- 1) how to implement, quantify and cap the transfer volume;
- 2) firming CAP water against shortages using the Arizona Water Bank;
- 3) clarification that CAWCD can sell excess water on a year-to-year basis;
- 4) assuring that uncontracted M&I water will be reallocated for municipal uses based on ADWR's recommendations;
- 5) clarification of the formula to be used for sharing CAP shortages between Indian and non-Indian contractors; and,
- 6) creating a mechanism that will give irrigation districts the opportunity to purchase CAP water even though they have transferred their CAP allocations for other purposes.

Significant progress has been made on all issues.

B. Remaining issues: Over the next month we will attempt to reach closure on the timing of the 200,000 acre-foot CAP transfer to the Secretary, the level of financial commitment by the State to firm NIA CAP water to M&I priority, and how the Reclamation Reform Act relief for irrigation districts can be incorporated into the GRIC settlement.

II. Gila River Indian Community Settlement

A. Status: Extensive negotiations have been ongoing in conjunction with the overall CAP settlement discussions. About 107,000 acre feet of the previously described 200,000 acre feet reallocation would be targeted to the GRIC settlement. Total water from all sources included in this settlement equals 653,500 acre feet from a variety of sources. Parties are currently preparing draft documents for the settlement agreement and Congressional legislation.

B. Remaining issues: Parties will attempt to reach closure on water leasing agreements, off-reservation groundwater pumping protection measures including on-reservation recharge projects, resolution of water rights disputes in the Gila River watershed, and financial contributions to the settlement from state and federal parties.

III. San Carlos Apache Tribe Settlement

- A. **Status:** A settlement agreement with the Tribe was signed in late April. However, several parties that signed the 1992 SCAT settlement agreement have not signed the amended agreement and have petitioned the state adjudication court to invalidate the amended settlement agreement.
- B. **Remaining issues:** Representatives of the Tribe and the United States have been holding extensive negotiations with certain state parties to reach closure on unresolved issues. Those parties are the CA WCD, Scottsdale and other Salt River Valley cities. Progress has been made on many issues, but no settlement has been reached with the cities of Globe and Safford.

Negotiations have also been initiated between the Tribe and state parties who are water users within the Upper Gila River watershed. (Eg. Franklin Irrigation District, Gila Valley Irrigation District, Phelps Dodge, ASARCO and cities in the area.

IV. **Southern Arizona Water Rights Settlement (SAWRSA)**

- A. **Status:** Parties are nearing closure on a number of issues that will lead to amendments to this settlement act involving the water rights claim of the Tohono O'odham Nation. A concerted effort is being made to introduce the settlement amendments in Congress concurrently or in advance of the GRIC legislation.
- B. **Remaining issues:** Parties are actively investigating options to firm the Nation's CAP water against shortages by recharging Tucson area effluent owned by the Secretary of the Interior. Other discussions concern the use of CAP water by mining companies in the vicinity of the San Xavier reservation.

V. **Navajo/Hopi Little Colorado River Settlement**

- A. **Status:** Settlement discussions have been facilitated by Judge Nelson. Most issues have been resolved through the grandfathering in of existing uses and the proposal to meet the Navajo/Hopi water budgets with CAP water.
- B. **Remaining issues:** Issues remain over:
 - (1) the amount of CAP water from the reallocation pool that will be available for this settlement;
 - (2) how future groundwater transfers might be treated; and,
 - (3) the settlement of non-Indian federal reserved rights including rights claimed by Grand Canyon National Park.

Process

A June 30th deadline has been set to complete settlement agreements in the negotiations listed in I - IV. If successful, legislation will be introduced in Congress next session to codify the terms and conditions of the settlement agreements. It may also be necessary to introduce legislation in the state legislature if changes in state law are required.

27008

DEPARTMENT OF THE INTERIOR**Bureau of Reclamation****Intent to Solicit Comments on the Development of Surplus Criteria for Management of the Colorado River and to Initiate National Environmental Policy Act (NEPA) Process****AGENCY:** Bureau of Reclamation, Interior.**ACTION:** Notice to solicit comments and initiation of NEPA process.

SUMMARY: The Department of the Interior, Bureau of Reclamation ("Reclamation"), is considering development of specific criteria that will identify those circumstances under which the Secretary of the Interior ("Secretary") may make Colorado River water available for delivery to the States of Arizona, California, and Nevada (Lower Division States or Lower Basin) in excess of the 7,500,000 acre-foot Lower Basin apportionment.

DATES: We must receive all comments at the address below on or before June 30, 1999. In addition to accepting written comments, we will hold public scoping meetings prior to the closing of the comment period. We will hold the public scoping meetings to allow the public to comment on the need for, and content of, specific surplus criteria as part of the National Environmental Policy Act (NEPA) process initiated by this notice. We will notify you of the dates, times, and places for these meetings through the *Federal Register*, media outlets, and to all respondents to this notice.

ADDRESSES: You may submit comments to the Regional Director, Lower Colorado Region, Attention: Jayne Harkins, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89006-1470.

SUPPLEMENTARY INFORMATION: The Secretary, pursuant to the Boulder Canyon Project Act of December 28, 1928, and the Supreme Court opinion rendered June 3, 1963, and decree entered March 9, 1964 (Decree), in the case of *Arizona v. California, et al.*, is vested with the responsibility to manage the mainstream waters of the Colorado River in the Lower Basin. As the agency

that has been designated to act in the Secretary's behalf with respect to these matters, Reclamation intends to scope and, if appropriate, to develop and implement specific criteria under which "surplus" determinations will be made for the Lower Basin States.

Currently, each year, the Secretary establishes an Annual Operating Plan (AOP) for the Colorado River Reservoirs. The AOP describes how Reclamation will manage the reservoirs over a twelve month period, consistent with the "Criteria for Coordinated Long-Range Operation of the Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968" (Long-Range Operating Criteria) and the Decree. Reclamation consults annually with the Colorado River Basin States, Indian Tribes, and other interested parties in the development of the AOP. Further, as part of the AOP process, the Secretary makes annual determinations under the Long-Range Operating Criteria, regarding the availability of Colorado River water for deliveries to the Lower Division States. To meet the consultation requirements of federal law, Reclamation also consults with the Colorado River Basin States, Indian Tribes, and other interested parties during the five-year periodic reviews of the Long-Range Operating Criteria.

In recent years, demand for Colorado River water in Arizona, California, and Nevada has exceeded the Lower Basin's 7,500,000 acre-foot basic apportionment. As a result, criteria for determining the availability of surplus has become a matter of increased importance. Under these circumstances, the Secretary believes that it may be prudent to develop specific criteria that will guide the Secretary's annual decision regarding the quantity of Colorado River water available for delivery to the Lower Basin States. Such surplus criteria would provide more predictability to States and water users. Reclamation anticipates however, that surplus criteria will be subject to change based upon new circumstances, and that such criteria may be interim in nature.

Reclamation may implement the surplus criteria by revising the Long-Range Operating Criteria set forth in Article III(3) or by developing interim implementing criteria pursuant to Article III(3) of the Long-Range Operating Criteria. Proceeding under Article III(3) may be particularly appropriate because Section 602 of the Colorado River Basin Project Act, as amended, requires that any modification to the Long-Range Operating Criteria be made "only after correspondence with the Governors of the seven Colorado

River Basin States and appropriate consultation with such state representatives as each Governor may designate." This statutory reference to the special role of the Basin States in matters relating to the Long-Range Operating Criteria underscores the importance of working closely with the states in developing surplus criteria. Reclamation intends to appropriately coordinate the development of surplus criteria with the Basin States, in accordance with this mandate. In that regard, Reclamation recognizes that efforts are currently underway to reduce California's reliance on surplus deliveries.

Reclamation will take account of progress in that effort, or lack thereof, in the decision-making process regarding specific surplus criteria. Reclamation also intends to make full use of technical information and approaches that have been developed through ongoing discussions with the Basin States. This information can be obtained through the Reclamation contact listed above.

As part of the process initiated by this notice, Reclamation will analyze the effects of specific surplus criteria on potential future shortage determination on the Colorado River. The criteria would be consistent with relevant Federal law, and would recognize relevant provisions of the Law of the River, which has evolved out of a combination of Federal and State statutes, interstate compacts, court decisions and decrees, an international treaty, contracts with the Secretary, operating criteria, regulations, and administrative decisions.

Reclamation will utilize a public process pursuant to NEPA during the development of the surplus criteria. By this notice, Reclamation invites all interested parties, including the Colorado River Basin States, Indian Tribes, water users, members of the general public, organizations, and agencies to present written comments concerning the format for the criteria, the scope of specific surplus criteria, and the issues and alternatives that they suggest should be analyzed. As noted above, Reclamation will integrate the consultation requirements of Section 602 of the Colorado River Basin Project Act, as amended, into the NEPA process initiated by this notice. As part of this review, Reclamation will consult with state representatives of each of the Governors of the seven Colorado River Basin States, Indian Tribes, members of the general public, representatives of academic and scientific communities, environmental organizations, the recreation industry and contractors for the purchase of Federal power produced at Glen Canyon Dam.

Dated: May 13, 1999.

David J. Hayes,

Acting Deputy Secretary.

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