

**ARIZONA WATER BANKING AUTHORITY**

**Wednesday, December 19, 2001**

No.	NAME (Please print)	Phone No.
1	Ray Brooks	702-258-3176
2	Melba Thornley	702-259-8169
3	Jim Davenport	702-486-2689
4	Mark Moyes	520-742-0416
5	Susan Selby	702-258-3214
6	Larry Dozier	623-869-2377
7	BARBARA GERHART / MOYES/STUREY	602-604-2129
8	KARL KOHLITOFF	602-522-7412
9	Larry Green	480-945-3189
10	Don Pope	928-627-8824
11	PAUL DOME	623-465-0445
12	RON WONG	(520)682-2516
13	Mary Reece	602-216-3884
14	Sharon Megdal	520-326-4789
15	Walt Mopres	480-644-4364
16	Paul Nelson	602-216-3878
17	Buck Sigel	236-2277
18	Cregg Houtz	417-2908
19	Kathi Knay -house staff	602 542 5480
20	Cindy Shimokusa	520 770 3800
21	Harry Kuzynski	213 217 6082
22	Herb Kai	520-744-1573
23	GARY WEATHERFORD	415-357-1940
24	Jim Peterson	520-297-2771

**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](http://www.awba.state.az.us)

**PLEASE POST**

**NOTICE OF PUBLIC MEETING**

Pursuant to A.R.S. § 38-431.02, notice is hereby given that there will be a meeting of the Arizona Water Banking Authority Commission on December 19, 2001 at 10:00 a.m. at the Arizona Department of Water Resources, 500 North Third Street, Phoenix, Arizona 85004, third floor conference room. The meeting is open to the general public. A copy of the agenda for the meeting is posted below.

Dated this 18<sup>th</sup> day of December, 2001

**FINAL AGENDA**

**Arizona Water Banking Authority Commission Meeting**

- I. Welcome/Opening Remarks
- II. Approval of Minutes of September 26<sup>th</sup> Meeting
- III. Water Banking Staff Activities
  - New Staff
  - Deliveries
  - SRP Exchanges
  - AWBA Website Updates
- IV. Discussion and Approval of 2002 Annual Plan of Operation
  - Overview of Public Comments
  - Comments
  - Approval of 2002 Annual Plan of Operation
- V. Consideration of Action to Authorize the Extension of AWBA Contract Agreements
  - Extend For Up to One Year GSF, USF, and IGA Agreements
- VI. Approval of GRUSP Agreement
- VII. Herb Kai GSF Concepts
- VIII. Update on Status of Interstate Discussions
- IX. Update Regarding Governor's Water Management Commission
- X. Call to the Public

**Future Meeting Date:**  
[Wednesday, March 20, 2002](#)

*Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Nan Flores at (602) 417-2418. Requests should be made as early as possible to allow time to arrange the accommodation.*

**ARIZONA WATER BANKING AUTHORITY  
Draft Minutes**

**September 26, 2001  
Arizona Department of Water Resources**



**Welcome/Opening Remarks**

Arizona Water Banking Authority (Authority) members present were Joseph C. Smith, Tom Griffin and Bill Chase. *Ex officio* member, Representative Mike Gleason was also present.

**AUTHORITY MEMBERS**  
Joseph C. Smith, Chairman  
Tom Griffin, Vice-Chairman  
Bill Chase, Secretary  
George R. Renner  
Richard S. Walden

**Approval of Minutes of June 27 Meeting**

The Authority approved the minutes from the June 27, 2001 meeting.

**EX OFFICIO MEMBERS**  
Representative Mike Gleason  
Senator Ken Bennett

**Water Banking Staff Activities**

Tim Henley, manager of the Authority, reviewed the current deliveries. Mr. Henley stated that total deliveries continue to be below projected deliveries. This is primarily due to decreased deliveries early in the year in the Phoenix AMA. The Pinal AMA is about even and the Tucson AMA has deliveries greater than projected. Mr. Henley stated that he anticipated that deliveries would be near 300,000 acre feet for the year.

**2001 Annual Plan of Operation**

Mr. Henley informed the Authority members that this item was included on the agenda due to Central Arizona Project (CAP) indicating that there would be about 10,000 acre feet of water available at the end of the year. Because the facilities described in the 2001 Plan were currently being fully utilized, the only facility available for storage would be the Vidler Water Co. facility. However, the most recent discussions with representatives of Vidler Water Co. indicated that Vidler Water Co. did not want to offer storage to the Authority in 2001 but instead wanted to store water there on their own behalf. Consequently, no action was required on this agenda item.

Joseph C. Smith noted that Dorothy Timian-Palmer of Vidler Water Co. had submitted a speaker card. Ms. Timian-Palmer stated that Vidler Water Co. had recently met with Mr. Henley to discuss issues associated with storage at their facility. To address the technical concerns identified by Mr. Henley, Vidler Water Co. intended to store water on their own at the facility and provide monthly reports to the Authority regarding its performance. Ms. Timian-Palmer also addressed the issue of recovery at the site. She stated that if storage is done at the site and the Authority decides that further storage is not feasible, Vidler would be willing to buy back the water already stored. She anticipates that the facility would be available for Authority storage in mid-2002.

Tom Griffin questioned whether the 10,000 acre feet of available CAP water could be stored elsewhere. Mr. Henley stated that it probably could not because all of the other storage facilities were being fully utilized and the planned siphon outage in November and December precluded storage downstream of the Salt River siphon. Mr. Griffin asked whether a similar situation could occur next year. Mr. Henley stated that it could. Representative Mike Gleason questioned whether it was Vidler's intention to partner with the Authority. Mr. Henley stated that it was their plan to partner, either with the Authority or with other entities. He also noted that Vidler Water Co. was one of the most expensive facilities so they could have difficulty being competitive with other storage facilities for Authority storage, at least on an intrastate basis.

## **Discussion Regarding Issues Arising from Governor's Water Management Commission**

Mr. Henley stated that there were two issues that could impact the Authority: transfer of the credits developed using the 4¢ tax dollars to the Central Arizona Water Conservation District (CAWCD) and development of the Central Arizona Groundwater Replenishment District (CAGRDR) replenishment reserve.

The transfer of credits issue developed out of concern that the credits could be withheld by the Authority or the Arizona Department of Water Resources (ADWR) when they were needed. The proposal was made that this could be avoided by having the credits developed from those funds transferred directly to CAWCD. Mr. Henley had concerns with this proposal and a compromise was developed. First, in the section of the groundwater code that deals with assignability of credits, new language was proposed that eliminated ADWR's discretion for these specific credits. New language was also proposed for the Authority's statute that allows CAWCD to determine how many credits are needed (not the Authority), allows consultation with ADWR and limits the total amount of credits that can be used in any year to be 20% of the total M&I subcontract amount or a greater amount if approved by the Authority. This percentage was selected because at 20% shortages, the users can return to groundwater without penalties. It also allows the Authority to have some goal for storage. Bill Chase noted that this issue was still an agenda item for full consideration by the Water Management Commission. Mr. Griffin asked whether the 20% would be transferred annually. Mr. Henley said that it was not an annual transfer; the credits would only be transferred when the Secretary of the Interior declares that there is a shortage on the Colorado River.

The second issue is development of a CAGRDR replenishment reserve. This was of concern to Mr. Henley because the source of water being used is excess water and the Authority statutes provide that uses by the Authority come behind everyone else in Arizona. Mr. Henley stated that this priority issues was not problematic in the past because there were no other large users of excess water, however, the CAGRDR could want as much as 1.5 million acre feet of water. The proposed solution is a change in the AWBA statute that makes Authority storage for M&I firming of equal priority with storage by the CAGRDR for advance replenishment. Interstate water banking would be behind every other use in the state. Neither the CAGRDR nor the Authority want any other large user of excess water to be able to come in and have a higher priority.

### **Storage Facility Agreements**

- *Discussion and Approval of Agua Fria Agreement*

Mr. Henley informed the Authority that the agreement was complete, it was similar to existing USF agreements, and approval was needed to allow storage at the facility. Rep. Gleason asked if CAWCD set the rates and the Authority had no control over those rates. Mr. Henley stated that was the case, but the agreement limits the components that CAWCD could charge for. John Newman of CAP stated that all of the fees are cost based and that there were no capital components included. Rep. Gleason also had a question regarding the water quality language. Tom Harbour of CAP stated that the facility permit regulates monitoring for water quality.

The Authority approved signature of the agreement.

- *Avra Valley and Granite Reef Underground Storage Project*

Mr. Henley informed the Authority that these agreements had already been approved but the term was expiring. The extension could be by letter but Mr. Henley preferred having new

agreements. Mr. Smith asked the Authority if they wanted to see the final agreements for approval. Mr. Chase stated that he found it acceptable for staff to make a decision regarding the agreements. Mr. Smith advised staff that they could make the necessary perfunctory changes after review with the staff attorney.

- *Groundwater Savings Facility Agreements*

The existing agreements for storage at groundwater savings facilities expire on December 31, 2001. In addition to extension of the term of the agreements, there are some changes that need to be made in light of the CAWCD repayment stipulation. A new section has been added to the agreement that addresses recovery of the long-term storage credits stored within the facility. For districts that own the wells, the agreements will be similar in content. Different language will need to be developed for districts that do not own the wells. There may be different recovery options developed for each of those districts. Overall, all of the agreements should be consistent with each other with the exception of the term of the agreement and the recovery section. Mr. Henley stated that it was his intention to have all of the agreements signed by the December 31, 2001 expiration date.

### **Update on Status of Interstate Discussions**

Mr. Henley informed the Authority that the Agreement for Interstate Water Banking was signed in Las Vegas, Nevada on July 3, 2001 and that the negotiating team was working on the Storage and Interstate Release Agreement (SIRA). He said that the anticipated end of year completion date for the SIRA was probably not feasible given the Bureau of Reclamation's public notice requirement. His new estimate is approval of the SIRA at the March 2002 meeting of the Authority. The final agreement is the Agreement for Development of Intentionally Created Unused Apportionment (ADICUA). CAP staff have been working on the ADICUA and Mr. Henley proposes that it should be ready for approval concurrent with the SIRA.

Execution of all three agreements would allow initiation of storage for interstate purposes. At that time, staff would examine the opportunities for interstate water banking remaining in 2002 and if opportunities are identified, would bring the 2002 Plan of Operation back to the Authority for approval to amend it to include interstate water banking.

### **2002 Annual Plan of Operation**

Mr. Henley informed the Authority that the draft 2002 Annual Plan of Operation (Plan) would be presented at the three AMA Groundwater User Advisory Committee meetings as required by statute. He provided an overview of the Plan noting that it is similar in content to past Plans but noted that for the first time, storage at USFs was greater than storage at GSFs. A review of Table 2 shows that the Plan projects Authority storage of about 360,000 acre feet and that there is some CAP capacity remaining that could be used for interstate water banking purposes. The cost of the program has increased to more than \$18 million. This is primarily due to increased water delivery costs. The Plan will be edited following the public meetings and a draft of the final Plan will be given to Authority members for review prior to the December Authority meeting.

Representative Gleason asked Mr. Henley when the program's carryover money would be gone. Mr. Henley stated that the carryover would be gone in approximately 4 years, however, the time is different for each of the AMA's. Specifically, the Pinal AMA has essentially no carryover left and the Phoenix AMA has a large amount of 4¢ tax dollar carryover because

that source of funds hasn't been expended yet in the Phoenix AMA. He added that once the Agua Fria Recharge Project becomes operational, the carryover in the Phoenix AMA could deplete quite rapidly.

Representative Gleason also asked about availability of water when he's seen publicity on how low Lake Mead is. Mr. Henley stated that availability of water should not be an issue because the Authority's Plan is within the state's entitlement.

Mr. Smith informed the Authority that the \$2 million general fund appropriation could be impacted by the Governor's requested 4% budget reduction. Mr. Chase stated that it might be helpful to reiterate the Authority's sources of funds and how they can be utilized when discussing implications of this type. Mr. Henley did so. A member of the public asked whether the legislature could take money from the Authority. Mr. Henley stated that they had not yet done so, but he wouldn't speculate on what they could choose to do.

Mr. Chase had a question regarding Table 2 of the Plan, specifically why CAP capacity available increases and Authority storage decreases in October. The reasons for this are: CAP not filling Waddell, storage on behalf of the CAGR increases and there are decreased deliveries to Tucson due to inspection/maintenance of the pumping plant.

Mr. Henley reported to the Authority that Kai-Avra Valley was included in the Plan but had no storage projected. The Kai-Avra Valley facility is a unique situation because the facility is in the Tucson AMA but lacks the infrastructure to allow delivery of CAP water. The inventory of facilities completed by the Authority identified a shortage of facilities in that AMA, consequently the Authority can provide financial assistance to entities developing projects there. Staff are currently in the process of developing the agreements necessary to allow the Authority to purchase storage capacity at the Kai-Avra facility. Mr. Henley anticipates that the agreements could be ready for approval at the December Authority meeting and then construction of the infrastructure could be initiated. He stated that this type of assistance could be an option for other entities in the Tucson AMA.

#### **Call to the Public**

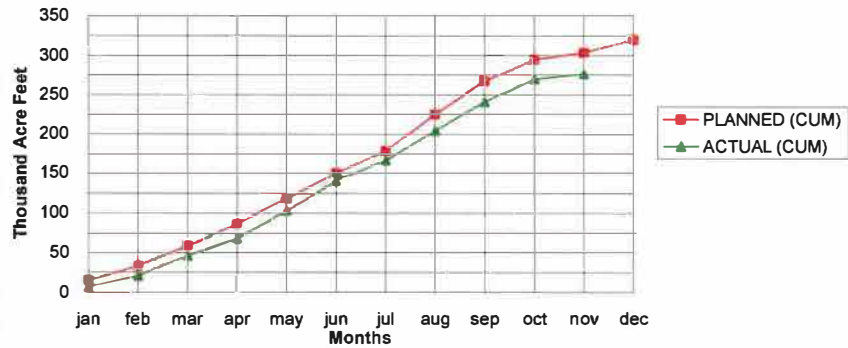
There was no public comment.

The next AWBA meeting is scheduled for Wednesday, December 19, 2001.

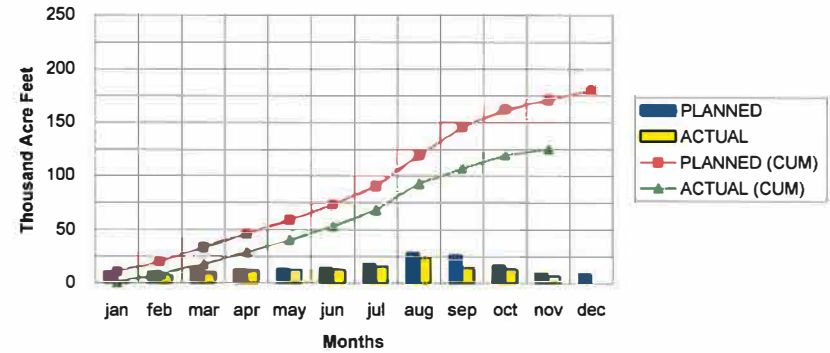
The meeting concluded at 11:20 a.m.

# 2001 Plan of Operation

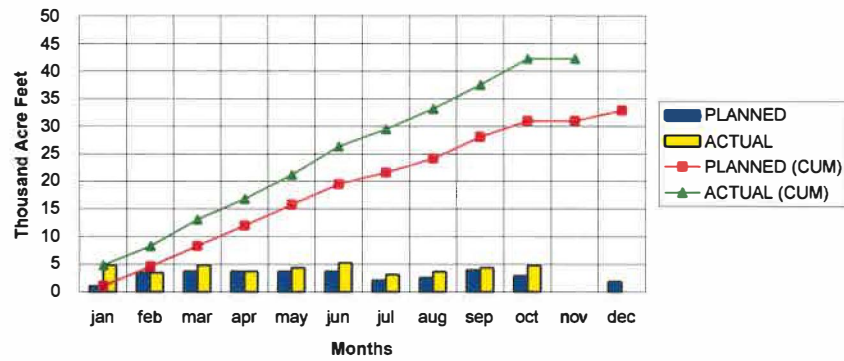
**2001 DELIVERIES (by Month)**  
Planned vs. Actual



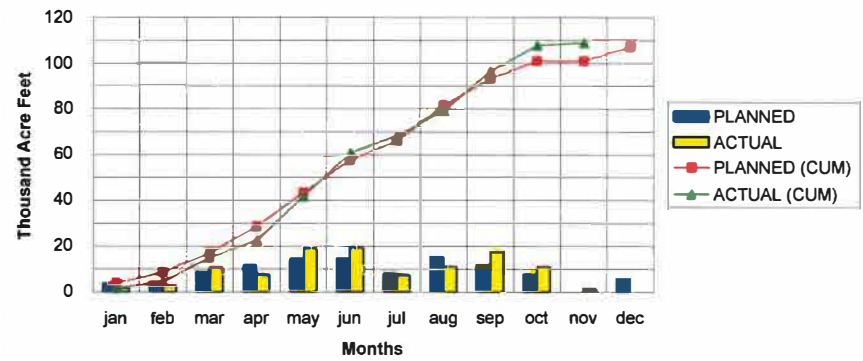
**Phoenix AMA (by Month)**  
Planned vs. Actual



**Tucson AMA (by Month)**  
Planned vs. Actual



**Pinal AMA (by Month)**  
Planned vs. Actual



Actual deliveries updated  
Plan of Operation

13-Dec-01  
1-Jan-01

	jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	dec	total
<b>Phoenix AMA</b>													
GRUSP	91	5,376	6,898	7,242	6,520	7,426	7,096	4,898	3,822	4,423	4,456		58,248
	7,920	7,920	7,920	7,920	7,920	7,920	7,920	7,920	7,920	7,920	3,000	4,500	86,700
AGUA FRIA	0	0	0	0	0	0	0	0	0	0	714		714
	0	0	0	0	0	0	0	1,560	1,450	1,410	3,750	3,750	11,920
CHCID	0	100	0	0	18	0	70	67	244	46	0		545
	50	100	50	100	100	151	125	125	125	191	0	0	1,117
NMIDD	615	1,738	767	1,896	3,000	2,873	5,696	12,595	7,375	5,341	266		42,162
	2,000	2,000	3,200	2,500	3,000	3,500	4,700	10,200	10,600	5,500	0	2,000	49,200
QCID	0	0	0	0	0	0	958	4,255	1,682	1,274	162		8,331
	0	0	0	0	0	0	2,967	6,642	4,124	1,682	200	500	16,115
MWD	0	0	0	0	0	0	0	0	0	0	0		0
	0	0	0	0	0	0	0	0	0	0	0	0	0
TID	0	0	0	0	0	0	0	0	0	0	0		0
	0	0	0	0	0	0	0	0	0	0	0	0	0
SRP	0	0	2,122	2,125	2,120	2,076	1,707	1,581	1,605	1,599	0		14,935
	0	0	2,120	2,120	2,120	2,120	2,120	2,120	2,120	0	0	0	14,840
VIDLER MBT	0	0	0	0	0	0	0	0	0	0	0		0
	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Subtotal</b>	<b>706</b>	<b>7,214</b>	<b>9,787</b>	<b>11,263</b>	<b>11,658</b>	<b>12,375</b>	<b>15,527</b>	<b>23,396</b>	<b>14,728</b>	<b>12,683</b>	<b>5,598</b>		<b>124,935</b>
<b>Total to date</b>	<b>706</b>	<b>7,920</b>	<b>17,707</b>	<b>28,970</b>	<b>40,628</b>	<b>53,003</b>	<b>68,530</b>	<b>91,926</b>	<b>106,654</b>	<b>119,337</b>	<b>124,935</b>		<b>124,935</b>
<i>Projected total to date</i>	<i>9,970</i>	<i>19,990</i>	<i>33,280</i>	<i>45,920</i>	<i>59,060</i>	<i>72,751</i>	<i>90,583</i>	<i>119,150</i>	<i>145,489</i>	<i>162,192</i>	<i>171,142</i>	<i>181,892</i>	<i>181,892</i>
<b>Pinal AMA</b>													
CAIDD	0	0	0	0	0	0	0	889	6,881	2,333	109		10,212
	0	0	0	0	0	0	0	4,195	6,700	2,500	0	1,605	15,000
MSIDD	429	521	4,086	830	8,798	11,326	3,530	2,178	6,237	6,210	1,112		45,257
	1,750	1,860	2,170	4,150	5,590	7,250	3,220	3,530	1,830	3,280	0	2,500	37,130
HIDD	1,088	2,259	6,598	6,761	10,151	7,955	3,789	7,886	4,483	2,466	0		53,436
	2,000	2,800	6,400	7,500	9,000	7,200	5,000	7,600	3,500	2,000	0	1,500	54,500
<b>Subtotal</b>	<b>1,517</b>	<b>2,780</b>	<b>10,684</b>	<b>7,591</b>	<b>18,949</b>	<b>19,281</b>	<b>7,319</b>	<b>10,953</b>	<b>17,601</b>	<b>11,009</b>	<b>1,221</b>		<b>108,905</b>
<b>Total to date</b>	<b>1,517</b>	<b>4,297</b>	<b>14,981</b>	<b>22,572</b>	<b>41,521</b>	<b>60,802</b>	<b>68,121</b>	<b>79,074</b>	<b>96,675</b>	<b>107,684</b>	<b>108,905</b>		<b>108,905</b>
<i>Projected total to date</i>	<i>3,750</i>	<i>8,410</i>	<i>16,980</i>	<i>28,630</i>	<i>43,220</i>	<i>57,670</i>	<i>65,890</i>	<i>81,215</i>	<i>93,245</i>	<i>101,025</i>	<i>101,025</i>	<i>106,630</i>	<i>106,630</i>
<b>Tucson AMA</b>													
Avra Valley	634	306	459	566	528	694	632	563	751	708	0		5,841
	570	570	570	570	570	570	570	570	570	570	0	300	6,000
CAVSARP	0	0	0	0	0	0	0	0	0	0	0		0
	0	0	0	0	0	0	0	0	0	0	0	0	0
Pima Mine	1,548	545	1,205	1,493	1,436	1,470	1,597	1,285	304	1,490	0		12,373
	0	937	1,140	1,140	1,140	1,140	1,140	1,140	1,140	808	0	600	10,325
Lower Santa Cruz	2,621	2,621	3,177	1,613	2,354	3,051	908	1,796	2,580	2,578	0		23,299
	492	2,000	2,000	2,000	2,000	2,000	400	400	1,200	1,011	0	1,000	14,503
Kai/Avra	0	0	0	0	0	0	0	0	0	0	0		0
	0	0	0	0	0	0	0	0	0	0	0	0	0
Kai/Red Rock	0	0	0	0	0	0	0	0	733	130	0		863
	0	0	0	0	0	0	0	500	1,000	500	0	0	2,000
<b>Subtotal</b>	<b>4,803</b>	<b>3,472</b>	<b>4,841</b>	<b>3,672</b>	<b>4,318</b>	<b>5,215</b>	<b>3,137</b>	<b>3,644</b>	<b>4,368</b>	<b>4,776</b>	<b>0</b>		<b>41,513</b>
<b>Total to date</b>	<b>4,803</b>	<b>8,275</b>	<b>13,116</b>	<b>16,788</b>	<b>21,106</b>	<b>26,321</b>	<b>29,458</b>	<b>33,102</b>	<b>37,470</b>	<b>42,246</b>	<b>42,246</b>		<b>41,513</b>
<i>Projected total to date</i>	<i>1,062</i>	<i>4,569</i>	<i>8,279</i>	<i>11,989</i>	<i>15,699</i>	<i>19,409</i>	<i>21,519</i>	<i>24,129</i>	<i>28,039</i>	<i>30,928</i>	<i>30,928</i>	<i>32,828</i>	<i>32,828</i>
<b>TOTAL</b>	<b>7,026</b>	<b>13,466</b>	<b>25,312</b>	<b>22,526</b>	<b>34,925</b>	<b>36,871</b>	<b>25,983</b>	<b>37,993</b>	<b>36,697</b>	<b>28,468</b>	<b>6,819</b>		<b>276,086</b>
<b>Total to date</b>	<b>7,026</b>	<b>20,492</b>	<b>45,804</b>	<b>68,330</b>	<b>103,255</b>	<b>140,126</b>	<b>166,109</b>	<b>204,102</b>	<b>240,799</b>	<b>269,267</b>	<b>276,086</b>		<b>276,086</b>
<i>Projected total to date</i>	<i>14,782</i>	<i>32,969</i>	<i>58,539</i>	<i>86,539</i>	<i>117,979</i>	<i>149,830</i>	<i>177,992</i>	<i>224,494</i>	<i>266,773</i>	<i>294,145</i>	<i>303,095</i>	<i>321,350</i>	<i>321,350</i>



# DRAFT

December 11, 2001

Arizona Water Banking Authority  
Tim Henley, Manager  
500 North Third Street  
Phoenix, Arizona 85004-3903

Re: Extension of Agreement for Storage of Water at the Avra Valley Recharge Project  
Between the Central Arizona Water Conservation District ("CAWCD") and the Arizona  
Water Banking Authority ("Authority")

Dear Tim,

On September 8, 1998, CAWCD and the Authority entered into the Agreement for Storage of Water at the Avra Valley Recharge Project (the "AVRP Agreement"). Section 6 of the AVRP Agreement provides that it shall expire on December 31, 2002, unless it is extended in writing by the Parties. CAWCD and the Authority have been discussing the possible restructuring of several agreements governing their relationship. One matter that is under discussion is the development of a Master Water Storage Agreement to govern the storage of water by the Authority at any State Demonstration Facility. CAWCD and the Authority have agreed to explore the possibility of developing such an agreement. If we are successful, the Master Water Storage Agreement will supersede all existing Water Storage Agreements associated with any State Demonstration Facility, including the AVRP Agreement. Rather than taking the time to renegotiate the AVRP Agreement, CAWCD believes its time would be better spent moving forward with the Master Water Storage Agreement. Accordingly, CAWCD is willing to extend the term of the AVRP Agreement until April 30, 2002, so that it and the Authority have an opportunity to develop an acceptable form of Master Water Storage Agreement. If the Authority agrees to such an extension of the AVRP Agreement, please so indicate by signing in the space provided below. A duplicate of this letter is also enclosed, please sign that letter as well and return one fully executed letter to us for our files. If you have any questions, please contact Tom McCann or Suzanne Ticknor.

Very truly yours,

Sid Wilson

ARIZONA WATER BANKING AUTHORITY

By: \_\_\_\_\_ Its: \_\_\_\_\_

# DRAFT

December 11, 2001

Arizona Department of Water Resources  
??????  
500 North Third Street  
Phoenix, Arizona 85004-3903

Arizona Water Banking Authority  
Tim Henley, Manager  
500 North Third Street  
Phoenix, Arizona 85004-3903

Re: Extension of Intergovernmental Agreement Among the Arizona Water Banking Authority ("Authority"), the Arizona Department of Water Resources ("ADWR") and the Central Arizona Water Conservation District ("CAWCD")

Dear :

In December of 1996, the Authority, ADWR and CAWCD entered into an Intergovernmental Agreement to facilitate the goals of the Authority in purchasing and storing Colorado River water in accordance with A.R.S. § 45-2401 *et seq.* (the "IGA"). The IGA expires on December 31, 2001. CAWCD, the Authority and ADWR have been discussing the possible restructuring of several agreements governing their relationship, including the IGA. We anticipate that this process may take several months. CAWCD is willing to extend the term of the IGA until April 30, 2002, to allow development of new agreements to govern the relationship among CAWCD, the Authority and ADWR. If you agree to such an extension of the IGA, please so indicate by signing this letter in the space provided below. Two duplicates of this letter are also enclosed, please sign those as well and return them to us in the enclosed self-addressed, stamped envelope. We will return a fully executed original to you for your files. If you have any questions please contact Tom McCann or Suzanne Ticknor.

Very truly yours,

Sid Wilson

# DRAFT

ARIZONA WATER BANKING AUTHORITY

By: \_\_\_\_\_ Its: \_\_\_\_\_

ARIZONA DEPARTMENT OF WATER RESOURCES

By: \_\_\_\_\_ Its: \_\_\_\_\_

# DRAFT

November 21, 2001

Arizona Water Banking Authority  
Tim Henley, Manager  
500 North Third Street  
Phoenix, Arizona 85004-3903

entity  
name  
title  
street  
city

Re: Extension of Groundwater Savings Facility Agreement Among CAWCD, AWBA and

Dear :

On January 24, 1997, the Central Arizona Water Conservation District ("CAWCD"), the Arizona Water Banking Authority ("AWBA") and the ("District") entered into an agreement providing for the delivery of Central Arizona Project Water for storage at a groundwater savings facility (the "GSF Agreement"). Section 7 of the GSF Agreement provides that it shall terminate on December 31, 2001, unless the Parties agree in writing to extend the term. The AWBA has been leading the effort to renew the GSF Agreement and has circulated a draft agreement among the parties. In reviewing the revised GSF Agreement CAWCD has determined preliminarily that it no longer needs to be a party to the GSF Agreement. However, the AWBA and the District need additional time to negotiate and finalize a revised GSF Agreement. Accordingly, CAWCD is willing to extend the term of the current GSF Agreement until April 30, 2002. If you agree to this extension of the GSF Agreement, please so indicate by signing this letter in the space provided below. Two duplicates of this letter are also enclosed, please sign those as well and return them to us in the enclosed self-addressed, stamped envelope. We will return a fully executed original to you for your files. If you have any questions please contact ?????? at ?????

Very truly yours,

??????????

# DRAFT

Agreed and accepted

ARIZONA WATER BANKING  
AUTHORITY

Entity

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_



1 Resources have entered into an intergovernmental agreement  
2 (“AWBA/ADWR/CAWCD IGA”) providing for the purchase and delivery of  
3 Excess Water to the Authority for water storage; and

4 2.5. WHEREAS, the Association does not as a rule make its water delivery  
5 system available to all water users potentially served by it and does not  
6 operate for profit, but, as an accommodation to the Authority and for the  
7 incidental benefit to Association shareholders, the Association will transport  
8 Authority Water for the Authority as an incident to its primary function;  
9 provided that the transportation of such water shall not in any way disrupt or  
10 interfere with the operation of the Association Water Delivery System on  
11 behalf of Association shareholders and pursuant to decrees and contracts;  
12 and provided further that this Agreement will not affect the responsibilities of  
13 the Association with respect to waters developed, controlled or stored by the  
14 Association and delivered pursuant to rights of Association shareholders and  
15 decrees and contracts; and

16 2.6. WHEREAS, the Association acts on behalf of itself and other Interconnection  
17 Facility and GRUSP participants as Operating Agent for the Interconnection  
18 Facility and GRUSP; and

19 2.7. WHEREAS, the Association on behalf of itself and as agent for those  
20 participants common to both the Interconnection Facility and GRUSP have  
21 agreed to make available unused Interconnection Facility and GRUSP  
22 capacity for use by the Authority to facilitate the delivery and storage of  
23 Authority Water;

24 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein  
25 contained, it is agreed as follows:

26 3. Definitions

27 3.1. “Association Water Delivery System” shall mean the Association’s canal  
28 system, including canals, gates and measuring devices; but excluding  
29 laterals and drain ditches.

30 3.2. “Authority Water” shall mean Excess Water made available by CAWCD to

1 the Authority for Water Storage, which water would not otherwise have been  
2 used within Arizona.

3 3.3. "Evacuated Water" shall mean water released from the Association Water  
4 Delivery System or Interconnection Facility:

5 3.3.1. As a result of excess storm runoff and under emergency conditions;

6 or

7 3.3.2. In the event of the discovery of contaminated water in the Association  
8 Water Delivery System or Interconnection Facility.

9 3.4. "Excess Water" shall mean Project water which, in any year, is available for  
10 delivery and has not been scheduled for delivery pursuant to a contract with  
11 the United States or a subcontract with the United States and CAWCD  
12 providing for Project Water service for a period of 50 years or more.

13 3.5. "GRUSP" shall mean the Underground Storage Facility operated by the  
14 Association pursuant to Underground Storage Facility Permit, No. 71-  
15 516371.

16 3.6. "GRUSP IGA" shall mean the agreement among the Association, the Salt  
17 River Project Agricultural Improvement and Power District, Chandler, Gilbert,  
18 Mesa, Phoenix, Scottsdale, and Tempe dated February 26, 1993.

19 3.7. "Interconnection Facility" shall mean the facility located adjacent to the  
20 Granite Reef Diversion Dam which interconnects the CAP aqueduct with the  
21 Association Water Delivery System and the Salt River Bed.

22 3.8. "Interconnection Facility IGA" shall mean the agreement among the  
23 Association, the Salt River Project Agricultural Improvement and Power  
24 District, Chandler, Gilbert, Glendale, Mesa, Peoria, Phoenix, Scottsdale and  
25 Tempe dated July 26, 1989.

26 3.9. "Operating Agent" shall mean the Association in its capacity as the Party  
27 responsible for performance of construction work and operating work as  
28 defined in the Interconnection Facility IGA and the GRUSP IGA.

29 3.10. "Participants" shall mean those participants common to both the  
30 Interconnection Facility IGA and the GRUSP IGA.



1 3.11. "Party or Parties" shall mean either one or, in the plural, both of the parties  
2 to this Agreement.

3 3.12. "Point(s) Of Delivery" shall mean the point(s) at which Authority Water is  
4 diverted from the Association Water Delivery System to the GRUSP for the  
5 Authority. Unless otherwise agreed in writing by the Parties, the Point of  
6 Delivery is the GRUSP delivery gates that are located just upstream of the  
7 Hennessy drain gates on the Associations' South Canal.

8 3.13. "Point(s) Of Receipt" shall mean the point(s) where the Interconnection  
9 Facility discharges into the Association Water Delivery System. Unless  
10 otherwise agreed in writing by the Parties, the Point of Receipt is the point  
11 where the South Canal component of the Interconnection Facility discharges  
12 into the Association's South Canal.

13 3.14. "Transportation Losses" shall mean the amount of water lost through  
14 seepage, evaporation or other causes while being transported within the  
15 Association Water Delivery System from the Point of Receipt to the Point of  
16 Delivery. Transportation Losses shall not include Evacuated Water.

17 3.15. Terms defined in A.R.S. § 45-802.01 shall have the meanings ascribed to  
18 them therein. The first letters of such terms are also capitalized herein.

19 4. Scope of Services

20 This Agreement is limited to (1) transportation of Authority Water through the  
21 Interconnection Facility, (2) transportation of Authority Water in the Association  
22 Water Delivery System from the Point of Receipt to the Point of Delivery, and (3) the  
23 storage of Authority Water by the Association at the GRUSP for the benefit of the  
24 Authority.

25 5. Term

26 This Agreement shall terminate on December 31, 2006, unless the Parties agree  
27 in writing to extend the term or unless it is sooner terminated or canceled in  
28 accordance with Subarticle 11.4 or Articles 18, 21, 24, 31, and 32 hereof.

29 6. Authorized Representatives

30 Within thirty (30) days after execution of this Agreement, each Party shall designate

1 in writing to the other Party an authorized representative (“AR”) and an alternate to  
2 administer, on behalf of the designating Party, the provisions of Subarticle 8.4.  
3 Written notice of a change of an AR or alternate shall be provided within thirty (30)  
4 days of such change. The alternate shall act only in the absence of the AR.  
5 Neither the ARs nor the alternates shall have authority to amend this Agreement.  
6 Agreements of the ARs or alternates pursuant to this Agreement shall be in writing,  
7 signed by them and be binding upon the Parties.

8 7. Conditions Relating to Transportation and Storage

9 The transportation and storage of water under this Agreement is conditioned on the  
10 following:

11 7.1. Transportation of Authority Water through the Interconnection Facility and the  
12 Association Water Delivery System, and storage of Authority Water in  
13 GRUSP is subject to the Interconnection Facility, Association, and GRUSP  
14 operating practices, respectively.

15 7.2. All storage of Authority Water shall be consistent with Arizona water law and  
16 with federal law applicable to the Project.

17 7.3. Authority Water made available pursuant to this Agreement shall be stored  
18 by the Association only at the GRUSP. The Association shall be responsible  
19 for all expenses and administrative requirements, including filing annual  
20 reports with the Arizona Department of Water Resources (“ADWR”),  
21 associated with maintaining the GRUSP permit. The Association’s storage  
22 of Authority Water at the GRUSP shall at all times comply with Underground  
23 Storage Facility Permit No. 71-516371. If Underground Storage Facility  
24 Permit No. 71-516371 is canceled or expires for any reason, the Authority  
25 may discontinue deliveries of Authority Water to the Association.

26 8. Procedure for Scheduling Authority Water

27 8.1. On or before November 15 of each year, the Authority shall submit in writing  
28 to the Association a proposed schedule indicating the amount of Authority  
29 Water desired by the Authority to be transported through the Interconnection  
30 Facility and the Association Water Delivery System, and stored at the

1 GRUSP during each month of the following year.

2 8.2. On or before December 15 of each year, the Association shall return to the  
3 Authority the schedule, as adjusted by and acceptable to the Association, for  
4 the following year. Such schedule shall constitute the maximum amount of  
5 Authority Water to be transported through the Interconnection Facility and  
6 the Association Water Delivery System, and stored at the GRUSP during  
7 each month of that year, subject to modification pursuant to Subarticle 8.3.

8 8.3. The Authority may increase or decrease its monthly schedule upon written  
9 approval by the Association. Unless otherwise agreed by the Parties, the  
10 Authority shall submit proposed modifications to its schedule to the  
11 Association not less than 15 days before the desired change is to become  
12 effective. The Association shall accept the Authority's timely request to  
13 decrease its schedule, and shall revise the schedule to reflect the decrease.

14 The Association will review the Authority's timely request to increase its  
15 schedule, and the Association will make any necessary adjustment to that  
16 request. The Association will notify the Authority in writing of the  
17 Association's action concerning the Authority's request to increase its  
18 schedule within 10 days of receipt of such request. The schedule shall be  
19 revised to reflect the increase.

20 8.4. The Authority shall authorize the Association to order Authority Water for  
21 delivery to the Interconnection Facility directly from CAWCD in accordance  
22 with CAWCD water ordering procedures and limits to be established by the  
23 ARs. Authority Water ordered by the Association shall not exceed the  
24 amounts provided for in the monthly schedule or in the then-current plan of  
25 operation of the Authority, unless expressly approved by the Authority.

26 8.5. Participants have first right of use of the Interconnection Facility and/or  
27 GRUSP prior to the use of the Interconnection Facility and GRUSP by the  
28 Authority pursuant to this Agreement.

29 8.6. Except as otherwise provided in this Agreement, the Association shall  
30 transport through the Interconnection Facility and the Association Water

1 Delivery System, and store at the GRUSP all Authority Water scheduled for  
2 transportation and storage in accordance with this Article 8.

3 9. Association as Operating Agent

4 9.1. The Association as Operating Agent of the Interconnection Facility and the  
5 GRUSP shall have the sole discretion in determining whether a curtailment  
6 or stoppage of water flows to or from the Interconnection Facility or to the  
7 GRUSP is made necessary by circumstances existing at any time; and shall  
8 assume no liability to the Authority for such curtailment or stoppage.

9 9.2. The Association shall retain sole responsibility and authority for decisions,  
10 relating to the Interconnection Facility and GRUSP operating and  
11 maintenance practices, including maintenance scheduling and the selection  
12 of periods when maintenance will be done.

13 9.3. Association as Operating Agent shall operate the Interconnection Facility and  
14 the GRUSP in a manner consistent with the Interconnection Facility IGA and  
15 GRUSP IGA. Whenever practicable, the Association shall inform the  
16 Authority ninety (90) days in advance of any matter which may substantially  
17 affect the Interconnection Facility, the GRUSP or the rights of the Authority,  
18 and of any actions to be taken by the Association related thereto.

19 10. Rates, Fees, and Charges

20 10.1. The Association shall bill the Authority and the Authority shall pay the  
21 Association at the following rates for Authority Water transported and stored  
22 in 2002:

23 10.1.1. For each acre foot of Authority Water delivered by CAWCD and  
24 accepted by the Association at the Interconnection Facility for  
25 storage in GRUSP, \$5.00

26 10.1.2. For each acre foot of Authority Water transported through the  
27 Interconnection Facility and accepted by the Association at the  
28 Point of Receipt, \$2.32.

29 10.1.3. For each acre foot of Authority Water diverted from the  
30 Association Water Delivery System to the GRUSP for the

1 Authority at the Point of Delivery, \$10.20.

2 10.2. For each year of this Agreement following the initial year, the rates specified  
3 in Subarticles 10.1.1, 10.1.2, and 10.1.3 shall increase by 3%.

4 10.3. In 2002, the Association shall bill the Authority and the Authority shall pay the  
5 Association an annual administration fee of \$2,430 which shall cover both  
6 the first Point of Delivery and first Point of Receipt, and \$386 for each  
7 additional Point of Receipt or Point of Delivery, whether separate or in  
8 common with that of another party. Commencing January 1, 2003, and in  
9 each January thereafter, the fees shall be increased by 3%. Such fees shall  
10 be billed when service is commenced, and in each January thereafter, and  
11 paid in accordance with Subarticle 11.2. The fees shall be prorated for those  
12 partial years of service resulting from initiation or permanent termination of  
13 service at Points of Receipt or Points of Delivery.

14 10.4. The Association shall bill the Authority and the Authority shall pay the  
15 Association any tax, tariff, duty, toll, fee, impost, charge or other exaction, or  
16 any increase thereof, for which the Association is or becomes liable to a  
17 governmental authority, other than the Salt River Project Agricultural  
18 Improvement and Power District ("District"), as a result of the services  
19 provided to the Authority pursuant to this Agreement.

20 11. Billing and Payment

21 11.1. Bills for services provided to the Authority shall be submitted by the  
22 Association to the Authority on or before the twenty-fifth (25th) day of each  
23 month (or if such day is not a business day, on the next succeeding business  
24 day) immediately following the month during which the Authority has incurred  
25 charges for such services. Such bills may include adjustments or corrections  
26 to bills previously submitted by the Association to the Authority.

27 11.2. Payment by the Authority to the Association shall be made in good funds on  
28 or before the thirtieth (30th) day following the date on which the bill was  
29 postmarked or if such day is not a business day, on the next succeeding  
30 business day. Bills which are not paid by this date shall be delinquent and

1 thereafter accrue an interest charge at the prime rate of interest as  
2 established by the Bank of America on the last business day of the month  
3 following the month for which the bill was submitted, plus 6% per annum,  
4 prorated by days of the unpaid principal, computed daily until payment is  
5 received. Any payment received shall first be applied to any interest charges  
6 owed, and then to any bills owed for services rendered.

7 11.3. In the event any portion of any bill is disputed, the disputed amount shall be  
8 paid when due, but may be accompanied by a written statement indicating  
9 the basis for any dispute. If the dispute is found to be valid, the Authority  
10 shall be refunded any overpayment plus interest, accrued at the rate set forth  
11 in Subarticle 11.2, prorated by days from the date payment was credited to  
12 the Authority to the date the refund check is mailed.

13 11.4. In the event any delinquent amount is not paid by the Authority within thirty  
14 (30) days after receipt by the Authority of written notice from the Association  
15 of the delinquency, the Association shall have the right, without liability of any  
16 kind, to refuse to transport and store Authority Water so long as the said  
17 amount remains unpaid, and may terminate this Agreement. Nothing herein  
18 shall limit the rights of the Association to use any other available legal  
19 remedy to effect collection of said amounts.

20 12. Water Measurement and Accounting

21 12.1. The Association will provide daily water accounting of Authority Water  
22 received for the Authority at the Points of Receipt, transported to the Points  
23 of Delivery and stored at the GRUSP. Such water accounting shall be  
24 retained by the Association for at least three (3) years and be made available  
25 for the Authority's inspection upon request.

26 12.2. The Association shall prepare a monthly water accounting report based on  
27 the daily water accounting provided under Subarticle 12.1. Such water  
28 accounting report may be combined with other existing Association reports  
29 provided to the Authority and shall include Authority Water delivered to each  
30 Point of Delivery, Authority Water stored at the GRUSP, Transportation

1 Losses, and Evacuated Water during that month.

2 12.3. The Association shall base its accounting for water delivered on:

3 12.3.1. actual measurements;

4 12.3.2. methods required by Underground Storage Facility Permit No.  
5 71-516371; and/or

6 12.3.3. generally accepted accounting and engineering practices.

7 12.4. The Association shall install and maintain flow measurement systems to  
8 measure the amount of Authority Water diverted:

9 12.4.1. from the Project aqueduct into the Interconnection Facility;

10 12.4.2. from the Interconnection Facility to the Point of Receipt; and

11 12.4.3. into the GRUSP.

12 12.5. The Association shall test and maintain the accuracy of these systems within  
13 plus or minus five (5) percent of actual flows.

14 12.6. The Association shall determine evaporation losses representative of the  
15 conditions at or near the GRUSP using the method indicated in Underground  
16 Storage Facility Permit, No. 71-516371, or using actual measurement, when  
17 available. Any other losses in the GRUSP shall be calculated using  
18 generally accepted engineering practices.

19 12.7. Water delivered to the GRUSP for storage but which exits the facility, other  
20 than by infiltration and evaporation, will be calculated using generally  
21 accepted engineering practices and water-level readings from the gauges in  
22 the basins. Water losses determined pursuant to this Subarticle 12.7 shall  
23 be apportioned by the Association among the Authority and other entities  
24 storing water at the GRUSP based on the amount of water delivered at the  
25 Point of Delivery for each entity during the period the loss occurred.

26 13. Minimum Water Storage

27 13.1. In any year covered by this Agreement, the Authority shall use its best efforts  
28 to arrange for delivery to the Association at the Interconnection Facility at  
29 least 50,000 acre feet of Authority Water. As part of these best efforts, the  
30 Authority shall include for each year of this Agreement at least this amount

1 of Authority Water for storage at the GRUSP in the draft plan of operation  
2 developed by the Authority in accordance with A.R.S. § 45-2456(C). The  
3 Association acknowledges, however, that, pursuant to A.R.S. § 45-2456, the  
4 Authority may modify the draft plan of operation based on public comment  
5 and other relevant factors prior to final adoption of the plan. The Association  
6 agrees to accept the decision of the Authority as reflected in the adopted  
7 plan of operation, and as the same may be amended as provided by law, as  
8 the determination on how much water will be stored at the GRUSP during the  
9 year.

10 13.2. The Association shall use its best efforts to accept delivery at the  
11 Interconnection Facility each year of at least 50,000 acre feet of Authority  
12 Water and to transport and store the water at the GRUSP.

13 13.3. Upon mutual agreement, the Authority may deliver, and the Association may  
14 accept delivery of, greater than 50,000 acre feet of water at the  
15 Interconnection Facility for storage at the GRUSP each year.

16 13.4. The efforts of the Authority to deliver to the Association, and of the  
17 Association to accept delivery from the Authority for storage at the GRUSP,  
18 of 50,000 acre feet of water per annum shall be subject to the following  
19 conditions:

20 13.4.1. That the Authority shall use its best efforts to obtain water from  
21 CAWCD. The Association acknowledges that the delivery of  
22 Authority Water is subject to Project aqueduct capacity  
23 limitations, other Project delivery obligations and other  
24 Authority delivery obligations and that delivery of Authority  
25 Water may not impede other aqueduct delivery obligations as  
26 described in A.R.S. § 45-2455(D). In addition, the Association  
27 acknowledges that the Project is subject to disruptions of  
28 service that may interfere with the Authority's ability to obtain  
29 Authority Water.

30 13.4.2. That funds are available to the Authority that allows the



1 Authority to obtain water from CAWCD and to transport and  
2 store Authority Water at the GRUSP pursuant to this  
3 Agreement. The Association acknowledges that the Authority's  
4 ability to deliver water for storage is contingent upon the  
5 continuation of appropriations to the Authority from the Arizona  
6 legislature and of other financing sources.

7 13.4.3. That the Interconnection Facility, Association Water Delivery  
8 System and the GRUSP are operational for the entire year.

9 13.4.4. That delivery of that amount of Authority Water is consistent  
10 with the conditions specified in Article 7.

11 13.4.5 That Participants have first right of use of the Interconnection  
12 Facility and/or GRUSP pursuant to Subarticle 8.5.

13 14. Quality of Water

14 14.1. Nothing in this Agreement shall be construed so as to require that the  
15 Association receive or transport water from any source when the Association  
16 reasonably determines that such receipt or transportation is likely to result  
17 in a violation of then existing federal, state or local laws or regulations  
18 regarding water quality.

19 14.2. The Authority shall indemnify the Association against all losses to third  
20 parties resulting from water quality degradation caused by the commingling  
21 of Authority Water in the Association Water Delivery System for the purpose  
22 of transporting such water for the Authority to the GRUSP. The Authority  
23 shall defend the Association against all claims for such losses, and the  
24 Authority releases the Association from any liability for Authority claims  
25 related to water quality; provided however, that the Authority's  
26 indemnification shall only extend to the percentage of degradation  
27 attributable to the Authority Water entering the Association Water Delivery  
28 System under the terms of this Agreement. The Authority retains the right  
29 to claim over against any other Participant or entity, including the  
30 Association, in an amount proportionate to such amount of poor quality water

1 introduced into the Association Water Delivery System by those other entities  
2 or Participants.

3 14.3. The Authority shall indemnify and hold harmless the Association, the  
4 Participants and entities storing water at the GRUSP against all losses to  
5 third parties resulting from water quality degradation caused by the  
6 Authority's water storage at the GRUSP, due to the commingling of Authority  
7 Water with the groundwater or water flowing above or below the surface of  
8 the Salt River bed. Further, the Authority waives any claim on its own behalf  
9 against the Association, the Participants and other entities storing water at  
10 the GRUSP for water quality degradation arising from such commingling,  
11 unless such claim is intended to enforce the indemnification provision of this  
12 Subarticle 14.3; provided however, that the Authority's indemnification shall  
13 only extend to the percentage of degradation attributable to the Authority  
14 Water stored at the GRUSP under the terms of this Agreement. The  
15 Authority retains the right to claim over against any other Participant or entity,  
16 including the Association, storing water in the GRUSP in the amount  
17 proportionate to such amount stored by those other entities or Participants.  
18 In no event shall the Association assume liability for water quality  
19 degradation resulting from the storage of water in the GRUSP, solely due to  
20 its performance of obligations as the Operating Agent.

21 14.4. The Association shall cooperate fully with the Authority in the defense of all  
22 claims of loss by third parties, and shall provide the Authority with all  
23 information, expert witnesses and records necessary for the Authority to  
24 defend against such claims.

25 14.5. The Authority's obligation to indemnify under this Article 14 shall encompass  
26 only:

27 14.5.1. The payment of losses to third parties that have been  
28 determined by mutual agreement of the Authority and the  
29 Association, arbitration or a court of competent jurisdiction to  
30 have resulted from water quality degradation caused by the

1 commingling of Authority Water either in the Association Water  
2 Delivery System for the purpose of transporting such water for  
3 the Authority to the GRUSP, or with groundwater or water  
4 flowing above or below the surface of the Salt riverbed.

5 14.5.2. All reasonable costs of defending against claims by third parties  
6 for such losses and all costs incurred by the Association in  
7 cooperating with the Authority under Subarticle 14.4 in the  
8 defense of such claims.

9 15. Liability

10 15.1. Each Party shall assume liability for its own negligence and shall indemnify  
11 the other against any damages the non-negligent Party incurs as a result of  
12 the negligent Party's action or inaction.

13 15.2. Neither the Association, the Participants, nor any entity storing water at the  
14 GRUSP shall assume any liability to the Authority for claims of damage  
15 resulting from the Association's decision or the decision of the State of  
16 Arizona, or the Salt River Pima-Maricopa Indian Community to curtail or stop  
17 water flows to or from the Interconnection Facility, the Association Water  
18 Delivery System or to the GRUSP for any of the following reasons:

19 15.2.1. during storm or emergency conditions;

20 15.2.2. in accordance with the requirement of:

21 15.2.2.1. Association water operations;

22 15.2.2.2. Underground Storage Facility Permit No. 71-516371;

23 15.2.2.3. The lease between the Salt River Pima-Maricopa Indian  
24 Community and the District dated March 9, 1993.

25 15.3. Neither the Association, the Participants nor any other entity storing water at  
26 the GRUSP shall assume any liability for quantities of recoverable or  
27 unrecoverable water stored underground or removed from underground  
28 storage; nor to replace water lost, misdirected or otherwise failing to reach  
29 the underlying aquifer. Each entity storing water at the GRUSP shall share  
30 in any deficiency resulting from such lost, misdirected or otherwise unstored

1 water in proportion to the amount of the GRUSP capacity it used at the time  
2 the deficiency occurred.

3 15.4. Neither Association, District, nor United States Bureau of Reclamation shall  
4 assume any liability to the Authority for damages resulting from damage or  
5 destruction to the GRUSP caused by controlled or uncontrolled releases to  
6 the Salt River bed whether in connection with operation of the Project, the  
7 Interconnection Facility, the GRUSP or the Salt River Project Reclamation  
8 Project.

9 15.5. The obligations set forth in this Article shall survive expiration or termination  
10 of this Agreement, and remain in full force and effect.

11 16. Transportation Losses

12 The Authority shall be assessed Transportation Losses at the rate of 0.21 percent  
13 per acre foot per mile between the Point of Receipt and the Point of Delivery.  
14 Annually in April, the Association shall review and adjust the Transportation Loss  
15 rate based upon generally accepted engineering practices. The Authority may  
16 request the Association to review the adjustment and to provide documentation to  
17 support the adjustment, and the Association shall comply within a reasonable time  
18 period. The adjusted rate shall remain in effect until next adjusted.

19 17. Priority of Service

20 Authority Water may be transported under this Agreement only to the extent that  
21 such transportation does not impair or prejudice the transportation and delivery of  
22 water 1) to Association shareholders, 2) pursuant to decrees, or 3) pursuant to  
23 contracts between the Association and third parties.

24 18. Default

25 In the event of a default by a Party, within thirty (30) days following notice of such  
26 default by a non-defaulting Party, the defaulting Party shall remedy such default  
27 either by advancing the necessary funds and/or rendering the necessary  
28 performance. Such notice shall specify the existence and nature of the default. If  
29 such default is not remedied with the time specified, the non-defaulting Party may  
30 terminate this Agreement effective 24 hours following written notice, without

1 prejudice to its rights and remedies established pursuant to this Agreement.

2 19. Interruptions or Curtailments in Delivery

3 Transportation of Authority Water shall be in accordance with Authority requests as  
4 set forth in Article 8 of this Agreement, and shall be subject to:

5 19.1. Interruptions to, and curtailments in, the capability of the Association to  
6 transport Authority Water due to emergencies, canal dry up, operational  
7 constraints and necessary maintenance and repairs of the Association Water  
8 Delivery System, all as determined solely by the Association.

9 19.2. Interruptions, evacuations and curtailments due to excessive storm runoff  
10 entering the Association Water Delivery System, as determined solely by the  
11 Association, or in the event the Association determines that significant  
12 degradation of water quality in the Association Water Delivery System likely  
13 to result in substantial liability is occurring or may occur as a result of  
14 introduction of Authority Water, or any other contamination or contaminated  
15 water in the Association Water Delivery System.

16 19.3. No obligation on the part of the Association to replace any portion of  
17 Authority Water evacuated from the Association Water Delivery System.

18 19.4. Availability of Authority Water at the Interconnection Facility or Points of  
19 Receipt, as determined by the Association.

20 20. Uncontrollable Forces

21 Neither Party shall be considered to be in default in the performance of any of its  
22 obligations hereunder (other than obligations of the Authority to make payment for  
23 service hereunder) when a failure of performance shall be due to uncontrollable  
24 forces. The term "uncontrollable forces" shall mean any cause beyond the control  
25 of the Party unable to perform such obligation, including, but not limited to, failure  
26 of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other  
27 natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike,  
28 labor dispute, labor or material shortage, sabotage, government priorities and  
29 restraint by court order or public authority, and action or nonaction by, or failure to  
30 obtain the necessary authorizations or approvals from, any governmental agency

1 or authority, which by exercise of due diligence such Party could not reasonably  
2 have been expected to avoid and which by exercise of due diligence it shall be  
3 unable to overcome. Nothing contained herein shall be construed to require either  
4 Party to settle any strike or labor dispute in which it is involved.

5 21. Reclamation Reform Act

6 In no event shall the Association's performance of obligations established herein  
7 subject the Association or its shareholders to provisions of the Reclamation Reform  
8 Act of 1982 (RRA), 43 USC 390bb (1), as amended, and regulations attendant  
9 thereto, to which the Association would not otherwise have been subjected.  
10 Further, in the event a change of legislation, future federal agency determination or  
11 other administrative or judicial action subjects or purports to subject the Association  
12 to the RRA as a result of the Association's performance of obligations established  
13 herein, the Association shall be relieved of any further obligations hereunder, and  
14 this Agreement shall be terminated at the Association's discretion.

15 22. Resolution of Disputes

16 22.1. A Party having a dispute under this Agreement that cannot be resolved by  
17 the Parties, may submit the dispute to arbitration. Arbitration shall be subject  
18 to the following provisions:

19 22.1.1. Arbitration shall be binding only upon the consent of the  
20 Parties.

21 22.1.2. A Party wishing to submit a dispute to arbitration shall provide  
22 thirty (30) days written notice to the other Party of its intent to  
23 pursue arbitration and shall name one arbitrator at that time.  
24 Within fifteen (15) days of receiving this notice, the other Party  
25 to the dispute shall name one arbitrator and give written notice  
26 to the other Party of its selection. The two selected arbitrators  
27 shall, within five (5) days of selection of the second arbitrator,  
28 jointly select a third arbitrator.

29 22.1.3. Within thirty (30) days from the selection of the third arbitrator,  
30 the arbitrators shall hold a hearing. Within thirty (30) days from

1 the conclusion of the hearing the arbitrators shall render a  
2 decision on the dispute.

3 22.1.4. Arbitration shall be subject to the Arizona Arbitration Act,  
4 Arizona Revised Statutes, Title 12, Chapter 9, Article 1. In the  
5 event of a conflict between this Agreement and the Act, the  
6 provisions of this Agreement shall prevail.

7 22.2. A Party that is dissatisfied with the results of non-binding arbitration may  
8 pursue any other legal or equitable remedy not expressly provided for in this  
9 Article 22 and available to resolve the dispute.

10 23. Action Pending Resolution of Disputes

11 Pending the resolution of a dispute pursuant to Article 22, each Party shall proceed,  
12 to the extent legally permissible, in a manner consistent with this Agreement, and  
13 shall make payments required in accordance with the applicable provisions of this  
14 Agreement. Amounts paid by a Party pursuant to this Article 23 during the  
15 pendency of such dispute shall be subject to refund and adjustment upon a final  
16 resolution of any dispute involving an amount due. Upon such final resolution, the  
17 owed amounts shall be remitted in accordance with the remittance  
18 procedures/arrangements contained in Article 11.

19 24. Termination of Agreement

20 This Agreement may be terminated under the following circumstances:

21 24.1. If the intergovernmental agreement among the Authority, ADWR, and  
22 CAWCD regarding delivery of Authority Water is terminated, the Authority  
23 may terminate this Agreement, which termination shall be effective fifteen  
24 (15) days after mailing written notice of termination to the Association; or

25 24.2. If the Authority determines in its sole discretion that the Association is  
26 operating the GRUSP in a manner which is likely to jeopardize the ability of  
27 the Authority to earn Long-Term Storage Credits for Authority Water  
28 delivered to the GRUSP for the benefit of the Authority, the Authority may  
29 terminate this Agreement, which termination shall be effective ten (10) days  
30 after mailing written notice of termination to the Association; or

1 24.3. In the manner and for any reason otherwise provided herein.

2 25. Compliance with Laws

3 The Association, in carrying out this Agreement, shall comply with all applicable  
4 laws and regulations of the United States and the State of Arizona, and shall obtain  
5 all required permits or licenses from the appropriate federal, state, and local  
6 authorities.

7 26. Books, Records, and Reports

8 The Association shall establish and maintain accounts and other books and records  
9 pertaining to administration of the terms and conditions of this Agreement, including:  
10 the Association's water supply data, water use data, and other matters relevant to  
11 this Agreement. Reports shall be furnished to the Authority in such form and on  
12 such date or dates as the Authority may reasonably require. Subject to applicable  
13 federal and state laws and regulations, each Party to this Agreement shall have the  
14 right during office hours to examine and make copies of the other Party's books and  
15 records relating to matters covered by this Agreement.

16 27. Notices

17 Any notice, demand, or request authorized or required by this Agreement shall be  
18 in writing and shall be deemed to have been duly given if mailed, first class postage  
19 prepaid, or delivered to the Parties at the following addresses:

20 If to the Authority:

21 Manager  
22 Arizona Water Banking Authority  
23 500 North Third Street  
24 Phoenix, Arizona 85004-3903  
25

26 If to the Association:

27 Salt River Valley Water Users' Association  
28 c/o Corporate Secretary  
29 PO Box 52025  
30 Mail Station PAB 215  
31 Phoenix, Arizona 85072-2025  
Reference: GRUSP



1 The designation of the address or addressee for the giving of notice may be  
2 changed by notice given as provided in this Article 27.

3 28. Assignments Limited -- Successors and Assigns Obligated

4 The provisions of this Agreement shall apply to and bind the successors and  
5 assigns of the Parties hereto, but no assignment or transfer of this Agreement or  
6 any interest therein shall be valid unless and until approved in writing by the non-  
7 assigning Party.

8 29. No Third Party Beneficiaries

9 This Agreement is solely for the benefit of the Parties, and does not create nor shall  
10 it be construed to create rights in any third party unless expressly provided herein.

11 No third party may enforce the terms and conditions of this Agreement.

12 30. Waiver

13 The waiver by either Party of any breach of any term, covenant or condition herein  
14 contained shall not be deemed a waiver of any other term, covenant or condition,  
15 or any subsequent breach of the same or any other term, covenant or condition  
16 herein contained.

17 31. Cancellation

18 This Agreement is subject to cancellation in accordance with the provisions of  
19 A.R.S. § 38-511.

20 32. Consistency With Other Agreements

21 This Agreement is intended to be consistent with the Interconnection Facility IGA,  
22 GRUSP IGA and AWBA/ADWR/CAWCD IGA. Upon agreement by the Parties this  
23 Agreement may be amended or supplemented to conform to an amended or  
24 supplemented Interconnection Facility IGA, GRUSP IGA or AWBA/ADWR/CAWCD  
25 IGA; provided, if the Parties cannot agree within 90 days after written notice from  
26 either Party to the other Party to amend or supplement this Agreement pursuant to  
27 this Article, either Party may terminate this Agreement.

28 33. Entire Agreement

29 The terms, covenants and conditions of this Agreement constitute the entire  
30 agreement between the Parties relative to the transportation of Authority Water for  
31 the Authority by the Association from the Interconnection Facility via the Association  
32 Water Delivery System to the GRUSP and storage of that water at the GRUSP, and

1 no understandings or obligations not herein expressly set forth shall be binding  
2 upon them. This Agreement may not be modified or amended in any manner  
3 unless in writing and signed by the Parties.

4  
5 IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective the  
6 day and year first above-written.

7 ARIZONA WATER BANKING  
8 AUTHORITY

9

10 Attest: \_\_\_\_\_

By: \_\_\_\_\_

11 Secretary

Chairman

12

13

SALT RIVER VALLEY WATER USERS'  
ASSOCIATION

14

15

16 Attest: \_\_\_\_\_

By: \_\_\_\_\_

17

18 Title: \_\_\_\_\_

Title: \_\_\_\_\_

19

20



# DRAFT

1           WHEREAS, the Authority’s plan identified the groundwater savings facility  
2 operated by the Facility Operator in the Avra Valley Irrigation District (“AVID”) as a  
3 potential additional storage site in the Tucson AMA; and

4           WHEREAS, the Facility Operator has been issued Groundwater Savings  
5 Facility (“GSF”) Permit No. 72-65564430 by the Arizona Department of Water  
6 Resources (“Department”), which permit authorizes the storage of up to 12, 513.37 acre  
7 feet per annum at the GSF; and

8           WHEREAS, to date, however, no water has been stored because of the  
9 need to finance and construct an aqueduct and appurtenant works from the Central  
10 Arizona Project (“CAP”) canal to the GSF in order to deliver ~~in-lieu~~-water to the GSF;  
11 and

12           WHEREAS, the GSF is located near the CAP canal in the northern  
13 Tucson AMA in an area of existing groundwater declines, and as such, is well located  
14 for Authority purposes; and

15           WHEREAS, the construction of an aqueduct and appurtenant works  
16 between the CAP canal and the GSF would allow the AWBA greater storage capacity in  
17 the Tucson AMA and could facilitate the transportation of recovered Authority Water in  
18 the future; and

19           WHEREAS, the Authority and the Facility Operator both recognize the  
20 mutual benefits that would result from the Authority reserving storage capacity in the  
21 GSF for reasonable compensation in accordance with A.R.S. § 45-2455, which  
22 compensation could be used by the Facility Operator to facilitate the financing of the  
23 construction of the aqueduct and appurtenant works.

24           NOW, THEREFORE, in consideration of the mutual and dependent  
25 covenants herein contained, it is agreed as follows:

# DRAFT

## Definitions

1  
2 3. (a) Authority Water: Excess CAP Water made available by CAWCD to  
3 the AWBA for underground storage, which water would not otherwise have been used  
4 in Arizona.

5 (b) CAP Water: Water delivered through the CAP system.

6 (c) Central Arizona Project or CAP: The water delivery works of the  
7 CAP including, but not limited to, the CAP canal, its turnout structures and associated  
8 measuring devices.

9 (d) Central Arizona Water Conservation District or CAWCD: The  
10 multi-county water conservation district formed in accordance with Title 48, Chapter 22,  
11 Arizona Revised Statutes, to arrange for repayment of, and delivery of water from, the  
12 CAP.

13 (e) Facility: The groundwater savings facility operated by the Facility  
14 Operator pursuant to the Permit, and located in the Avra Valley Irrigation District.

15 (f) Party or Parties: Either one or both of the Parties to this  
16 Agreement.

17 (g) Permit: The groundwater savings facility permit issued by the  
18 Department to the Facility Operator for the operation of a groundwater savings facility in  
19 the Avra Valley Irrigation District, currently Permit No. 72-564430, or any amended or  
20 subsequent groundwater savings facility permit issued by the Department to the Facility  
21 Operator for the operation of a groundwater savings facility on or about the same  
22 location of the groundwater savings facility currently operated pursuant to Permit No.  
23 72-564430.

24 (h) Water Storage Agreement: The Agreement Among the Central  
25 Arizona Water Conservation District, the Arizona Water Banking Authority, and Herb Kai

# DRAFT

1 Providing for the Delivery of Central Arizona Project Water for Water Storage at a  
2 Groundwater Savings Facility, executed \_\_\_\_\_, 2001.

3 4. Terms defined in A.R.S. § 45-802.01 shall have the meanings ascribed to  
4 them therein. The first letters of such terms are also capitalized herein.

## Term

5  
6 5. This Agreement shall terminate on \_\_\_\_\_, unless the  
7 Parties agree in writing to extend the term or unless it is sooner terminated or cancelled  
8 in accordance with Articles \_\_\_\_\_ hereof.

## Scope of Agreement

9  
10 6. This Agreement is limited to: (i) the Authority reserving storage capacity in  
11 the Facility; (ii) the Authority paying the Facility Operator reasonable compensation for  
12 the reservation; and (iii) the Facility Operator committing to use those funds for the  
13 construction of an aqueduct and appurtenant works between the CAP canal and the  
14 Facility.

## Reasonable Compensation

### For Reservation of Storage Capacity

15  
16  
17 7. Within thirty (30) days of the execution of this Agreement by both Parties,  
18 the Authority shall transmit to the Facility Operator \$\_\_\_\_\_, which both  
19 Parties agree is reasonable compensation for the reservation of storage capacity as set  
20 forth in Article \_\_\_\_.

## Construction and Operation of Aqueduct and Appurtenant Works

21  
22 8. The Facility Operator agrees to use all monies provided by the Authority  
23 for the reservation of storage capacity in the Facility pursuant to Article \_\_\_\_ of this  
24 Agreement to assist in the financing of the construction of an aqueduct and appurtenant  
25 works from the CAP canal to the Facility. The Facility Operator shall obtain all

# DRAFT

1 necessary legal authority to construct the aqueduct, including an easement over the real  
2 property between the CAP canal and the Facility for the construction, maintenance and  
3 operation of the aqueduct. The easement shall also allow an agent of the Authority to  
4 construct, operate, and maintain an aqueduct that allows for the transportation of water  
5 from the Facility to the CAP canal. The aqueduct constructed by the Facility Operator  
6 shall have a capacity of at least \_\_\_\_\_.

7 9. The Facility Operator agrees to have the aqueduct constructed and all  
8 other facilities and legal authorities in place to begin storing water at the Facility by  
9 \_\_\_\_\_, 20\_\_\_. If the Facility Operator is not capable of storing Authority  
10 Water at the Facility by \_\_\_\_\_, 20\_\_\_, the Facility Operator shall within  
11 thirty (30) days of that date repay the Authority the full amount of \$ \_\_\_\_\_  
12 paid by the Authority to the Facility Operator for the reservation of storage capacity at  
13 the Facility, along with interest charge of \_\_\_% per annum, accrued from the date the  
14 Authority transmitted the funds under Article \_\_\_ of this Agreement.

15 10. The Facility Operator shall report regularly to the Authority the actions  
16 being taken to make the Facility operational and shall notify the Authority when the  
17 Facility is capable of storing water.

## Reservation of Storage Capacity at Facility

18  
19 11. Except as provided in Article \_\_\_ of this Agreement, the Facility Operator  
20 agrees to offer to store up to \_\_\_\_\_ acre feet of Authority Water for the Authority during  
21 the twelve (12) year period after the Facility becomes operational. The annual  
22 scheduling and storing of Authority Water at the Facility is governed by the Water  
23 Storage Agreement.

24 12. Annually, the Facility Operator ~~may~~ must first offer storage capacity at  
25 the Facility to the Authority. The Authority may reject all or part of the offer of storage at

# DRAFT

1 the Facility in accordance with the Water Storage Agreement. The Facility Operator is  
2 under no obligation to compensate the Authority for storage capacity offered to, but not  
3 used by, the Authority. Compensation will be required pursuant to Article 13 for storage  
4 capacity utilized by another storing entity, that is reserved for the Authority to another  
5 water storer; however, to the extent that another water storer uses storage capacity that  
6 is reserved for the Authority under this Agreement, the Facility Operator shall collect  
7 from that water storer \$ (money advanced divided by total storage capacity) per acre  
8 foot of water stored. The Facility Operator shall transmit the monies collected to the  
9 Authority.

10 13. The Facility Operator may offer storage capacity not utilized by the  
11 Authority to another water storer; however, to the extent that another water storer uses  
12 storage capacity, the Facility Operator shall collect from that water storer \$X per acre  
13 foot of water stored.(money advanced divided by total storage capacity) The Facility  
14 Operator shall transmit the monies collected to the Authority which will deposit the  
15 money into the appropriate subaccount of the Arizona Water Banking Authority Fund.  
16 ~~The Authority may accept or reject the offer of storage at the Facility each year at its~~  
17 ~~discretion and in accordance with the Water Storage Agreement. The Facility Operator~~  
18 ~~is under no obligation to compensate the Authority for storage capacity offered to, but~~  
19 ~~not used by, the Authority.~~

20 14. Within thirty (30) days of the end of the twelve (12) year period in which  
21 the storage capacity is reserved, the Facility Operator shall reimburse the Authority for  
22 any of the reserved storage capacity that has not been offered to the Authority in an  
23 amount equal to the quantity of acre feet of storage capacity reserved but not offered to  
24 the Authority, less any capacity for which the Authority has already been compensated  
25 under Article \_\_, multiplied by \$ \_\_, along with an interest charge of \_\_% per annum on



# DRAFT

1 that amount, accrued from the date the Authority transmitted the funds under Article \_\_\_  
2 of this Agreement.

## Liability

3  
4 15. Each Party shall assume liability for its own negligence and shall  
5 indemnify, defend, and hold the other Party harmless from any and all claims (including  
6 but not limited to all costs, attorneys' fees, experts' fees, expenses and liabilities  
7 incurred in connection with any claim or proceeding) arising directly or indirectly from  
8 their own acts, omissions, or negligence, or that of their agents, employees, sublessees,  
9 invitees, or licensees. The Authority shall not be liable for any action taken by the  
10 Facility Operator regarding the construction, operation, or maintenance of the aqueduct  
11 and appurtenant works. The obligations set forth in this Article shall survive expiration or  
12 termination of this Agreement and remain in full force and effect, until all Authority Water  
13 stored under this Agreement has been recovered.

## Default

14 16. In the event of a default by a Party, within thirty (30) days following notice  
15 of such default by a non-defaulting Party, the defaulting Party shall remedy such default  
16 either by advancing the necessary funds and/or rendering the necessary performance.  
17 Such notice shall specify the existence and nature of the default. If such default is not  
18 remedied within the time specified, the non-defaulting Party may terminate this  
19 Agreement effective 24 hours following written notice, without prejudice to its rights and  
20 remedies established pursuant to this Agreement.

## Uncontrollable Forces

21 17. Neither Party shall be considered to be in default in the performance of  
22 any of its obligations hereunder when a failure of performance shall be due to  
23 uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond  
24 the control of the Party unable to perform such obligation, including, but not limited to,  
25 failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other

# DRAFT

1 natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor  
2 dispute, labor or material shortage, sabotage, government priorities and restraint by  
3 court order or public authority, and action or nonaction by, or failure to obtain the  
4 necessary authorizations or approvals from, any governmental agency or authority,  
5 which by exercise of due diligence such Party could not reasonably have been expected  
6 to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing  
7 contained herein shall be construed to require either Party or settle any strike or labor  
8 dispute in which it is involved.

## Resolution of Disputes

9  
10 18. A Party having a dispute under this Agreement that cannot be resolved by  
11 the Parties, may submit the dispute to arbitration. Arbitration shall be subject to the  
12 following provisions:

13 a. Arbitration shall be binding only upon the consent of the Parties.

14 b. A Party wishing to submit a dispute to arbitration shall provide thirty  
15 (30) days written notice to the other Party of its intent to pursue arbitration and shall  
16 name one arbitrator at that time. Within fifteen (15) days of receiving this notice, the  
17 other Party to the dispute shall name one arbitrator and give written notice to the other  
18 Party of its selection. The two selected arbitrators shall, within five (5) days of selection  
19 of the second arbitrator, jointly select a third arbitrator.

20 c. Within thirty (30) days from the selection of the third arbitrator, the  
21 arbitrators shall hold a hearing. Within thirty (30) days from the conclusion of the  
22 hearing the arbitrators shall render a decision on the dispute.

23 d. Arbitration shall be subject to the Arizona Arbitration Act, Arizona  
24 Revised Statutes, Title 12, Chapter 9, Article 1. In the event of a conflict between this  
25 Agreement and the Act, the provisions of this Agreement shall prevail.

# DRAFT

1           19.    A Party that is dissatisfied with the results of non-binding arbitration may  
2 pursue any other legal or equitable remedy not expressly provided for in this Article  
3 \_\_ and available to resolve the dispute.

## Action Pending Resolution of Disputes

5           20.    Pending the resolution of a dispute pursuant to Article \_\_, each Party shall  
6 proceed, to the extent legally permissible, in a manner consistent with this Agreement,  
7 and shall make payments required in accordance with the applicable provisions of this  
8 Agreement.

## Termination of Agreement

10          21.    This Agreement may be terminated under the following circumstances:

11           a.    If the intergovernmental agreement among the Authority, the  
12 Department, and CAWCD regarding delivery of the Authority Water is terminated, the  
13 Authority may terminate this agreement, which termination shall be effective fifteen (15)  
14 days after mailing written notice of termination to the Facility Operator; or

15           b.    In the manner and for any reason otherwise provided in this  
16 Agreement.

## Notices

18          22.    Any notice, demand, or request authorized or required by this Agreement  
19 shall be in writing and shall be deemed to have been duly given if mailed, first class  
20 postage prepaid, or delivered at the following addresses:

21           If to the Authority:

22           Manager  
23           Arizona Water Banking Authority  
24           500 North Third Street  
25           Phoenix, Arizona 85004-3903

            If to the Facility Operator:

# DRAFT

1           The designation of the address or addressee for the giving of notice may be  
2 changed by notice given as provided in this Article.

## Third Party Beneficiaries

3  
4           23.     This Agreement shall not be construed to create rights in, or to grant  
5 remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation  
6 or undertaking established herein.

## Assignments Limited – Successors and Assigns Obligated

7  
8           24.     The provisions of this Agreement shall apply to and bind the successors  
9 and assigns of the Parties, but no assignment or transfer of this Agreement or any  
10 interest therein shall be valid unless and until approved in writing by the non-assigning  
11 Party, which approval shall not be unreasonably withheld.

## Loss of Reserved Storage Capacity

12  
13           25.     If operation of the Facility by the Facility Operator is disrupted for longer  
14 than eighteen (18) consecutive months or terminated due to the actions or inaction of  
15 the Facility Operator prior to the Authority being offered its full reserved storage capacity  
16 under Article \_\_ of this Agreement, the Authority shall give written notice to the Facility  
17 Operator of its request for compensation for lost reserved storage capacity. The written  
18 notice shall explain the circumstances under which the Authority has concluded that it  
19 has lost its reserved storage capacity at the Facility and shall set forth the quantity of  
20 acre feet of storage capacity that was reserved but not offered to the Authority. Within  
21 thirty (30) days of receipt of the written notice, the Facility Operator shall repay the  
22 Authority for its lost reserved storage capacity in an amount equal to the quantity of acre  
23 feet of storage capacity reserved but not offered to the Authority, less any capacity for  
24 which the Authority has already been compensated under Article \_\_, multiplied by \$\_\_,  
25

# DRAFT

1 along with an interest charge of \_\_\_% per annum on that amount, accrued from the date  
2 the Authority transmitted the funds under Article \_\_\_ of this Agreement.

3 26. If the Facility Operator assigns its interest in the Facility or the aqueduct  
4 or other appurtenant works constructed in accordance with Article \_\_\_ of this Agreement  
5 to another person prior to the Authority being offered its full reserved storage capacity  
6 under Article \_\_\_ of this Agreement, the Facility Operator shall repay the Authority for its  
7 lost reserved storage capacity in accordance with Article \_\_\_, unless the person to whom  
8 the Facility Operator has assigned its interests in the Facility or aqueduct or other  
9 appurtenant works is assigned or transferred the Facility Operator's rights and  
10 obligations under this Agreement in accordance with Article \_\_\_.

## Waiver

11  
12 27. The waiver by either Party of any breach of any term, covenant or  
13 condition of this Agreement shall not be deemed a waiver of any other term, covenant  
14 or condition of this Agreement.

## Cancellation

15  
16 28. This Agreement is subject to cancellation in accordance with the  
17 provisions of A.R.S. § 38-511.

## Consistency with Other Agreements

18  
19 29. This Agreement is intended to be consistent with the intergovernmental  
20 agreement entered into among the Authority, the Department and CAWCD; provided, if  
21 the Parties cannot agree within 90 days after written notice from either Party to the other  
22 Party to amend or supplement this Agreement pursuant to this Article, either Party may  
23 terminate this Agreement.

## Entire Agreement

DRAFT

30. The terms, covenants and conditions of this Agreement, which includes the Exhibits to this Agreement, constitute the entire agreement between the Parties, and no understandings or obligations not expressly set forth in this Agreement shall be binding upon them. This Agreement may not be modified or amended in any manner unless in writing and signed by the Parties.

Governing Law

31. This agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

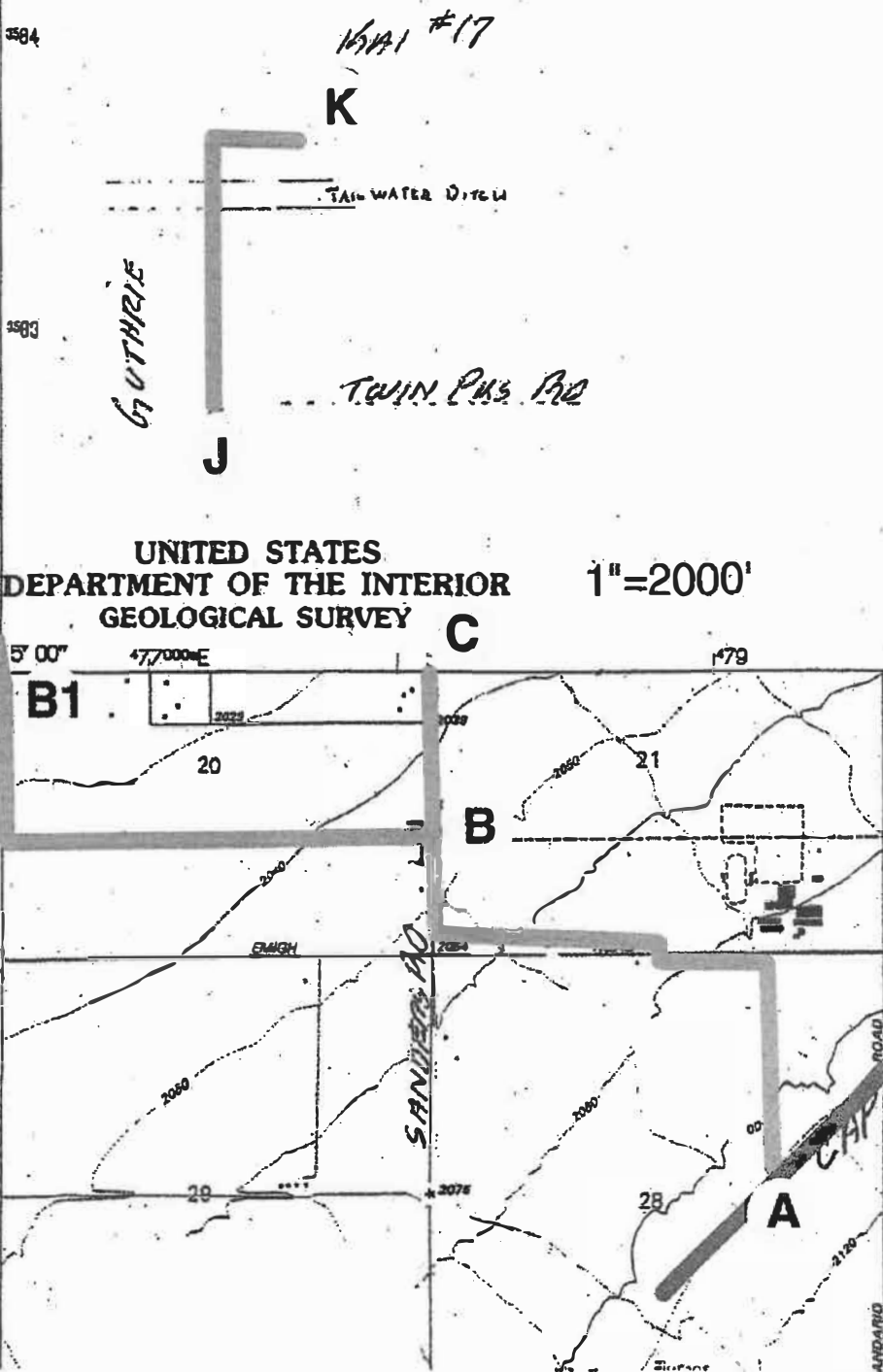
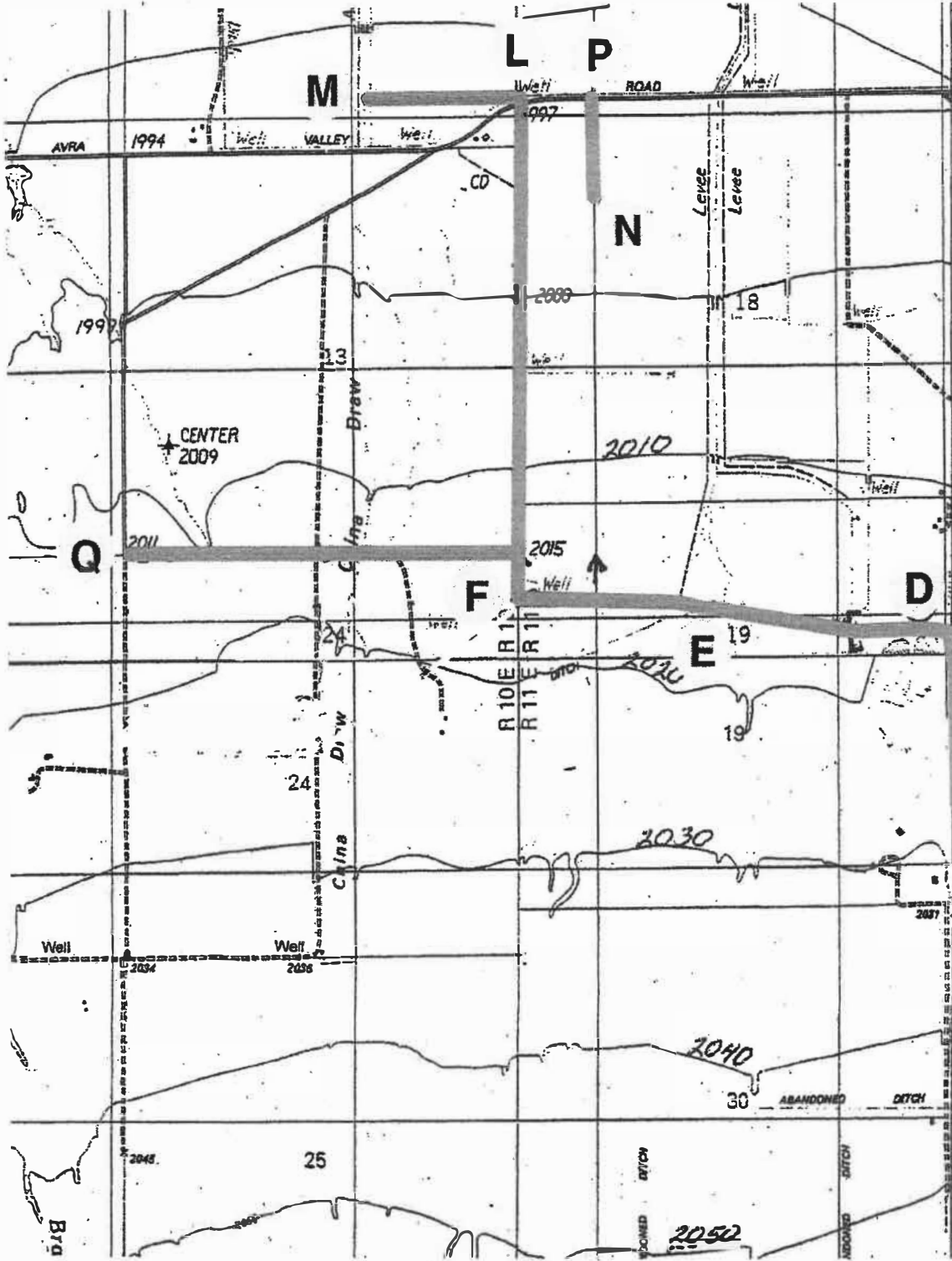
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective the day and year first above-written.

ARIZONA WATER BANKING  
AUTHORITY

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_  
Secretary Chairman

Herb Kai

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_



UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 GEOLOGICAL SURVEY

1"=2000'

161A1 #17

K

GUTHRIE

TAIL WATER DITCH

TWIN PUSS PK

J

B1

C

B

SANDBERG PK

A

LAND

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Value</b>
<b>A - B</b>	7,920	30,000 gpm from A to B Approx. elevation change A - B: -81vf	Pipe, gravity flow 36" diameter	7,920	\$65.00	\$514,800.00
					<b>Total =</b>	<b>\$514,800.00</b>



**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Cost</b>
<b>B - C</b>	1,000	8000 gpm from B to C Approx. elevation change B - C: -9.6vf	Open Ditch 1' bottom 1:1 Sides, 24" depth	1,000	\$6.00	\$6,000.00
<b>J - K</b>	4,200	4000 gpm from J to K Approx. elevation change J - K: -6.2vf	Pipe, pressure flow 24" diameter DIP 80 psi PIP	4,200	\$39.00	\$163,800.00
		<b>Pumping Plant J</b>				<b>\$35,000.00</b>
					<b>Total =</b>	<b>\$204,800.00</b>

**Acreage Irrigated = 800**  
**Acre Foot Use = 3200**

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Costs</b>
<b>B - B1</b>	6,480	24,000 gpm from B to B1	Open Ditch 2' bottom 1:1 Sides, 36" depth	6,480	\$22.00	\$142,560.00
<b>B1 - D</b>	900	24,000 gpm from B1 to D Approx. elevation change B1 - D: -3.8vf	Pipe, pressure flow 30" diameter DIP 80 psi PIP	900	\$50.00	\$45,000.00
					<b>Total =</b>	<b>\$187,560.00</b>

**Acreage Irrigated = 240**  
**Acre Foot Use = 960**

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Value</b>
<b>D - E</b>	3,800	20,000 gpm from D to E Approx. elevation change D - E: +2.0vf	Pipe, pressure flow 30" diameter DIP 80 psi PIP	3,800	\$50.00	\$190,000.00
<b>E - F</b>	2,100	20,000 gpm from E to F Approx. elevation change E - F: 0vf	Open Ditch 2' bottom 1:1 Sides, 36" depth Intake end to be elevated s=.001	2,100	\$28.00	\$58,800.00
<b>Pumping Plant D 4 Pumps</b>						<b>\$119,000.00</b>
<b>Total =</b>						<b>\$367,800.00</b>
 <b>Acreage Irrigated = 320</b> <b>Acre Foot Use = 1280</b>						

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Value</b>
<b>F - Q</b>	5,400	6000 gpm from F to Q Approx. elevation change F - Q: 0vf	Open Ditch 1' bottom 1:1 Sides, 28" depth	5,400	\$12.00	\$64,800.00
					<b>Total =</b>	<b>\$64,800.00</b>

**Acreage Irrigated = 320**  
**Acre Foot Use = 1280**

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Value</b>
<b>F - L</b>	6,700	10,000 gpm from F to L Approx. elevation change F - L: -17.0vf	Open Ditch 1' bottom 1:1 Sides, 28" depth	6,700	\$6.50	\$43,550.00
<b>N - P</b>	1,500	8,000 gpm from N to P Approx. elevation change N - P: -4.0vf	Open Ditch 1' bottom 1:1 Sides, 24" depth	1,500	\$6.00	\$9,000.00
					<b>Total =</b>	<b>\$52,550.00</b>

**Acreage Irrigated = 620**  
**Acre Foot Use = 2480**

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

<b>Section</b>	<b>Length in Feet</b>	<b>Flow</b>	<b>Proposed Conduit</b>	<b>Linear Foot</b>	<b>Cost/LF</b>	<b>Estimated Value</b>
<b>L - M</b>	2,100	4,000 gpm from L to M Approx. elevation change L - M: 0vf	Open Ditch 1' bottom 1:1 Sides, 24" depth (including high berm)	2,100	\$10.50	\$22,050.00
					<b>Total =</b>	<b>\$22,050.00</b>

**Acreage Irrigated = 480**  
**Acre Foot Use = 1920**

**Kai/AVIDD Ground Water Savings  
Delivery System**

**Road Crossings, Tie-In, Intake and Other Structures**

<b>Item</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Estimated Cost</b>
Intake at CAP:	1	\$37,500.00	\$37,500.00
Road Crossings at Emigh	60 lf	\$185.00	\$11,100.00
Road Crossings at Sanders	60 lf	\$185.00	\$11,100.00
Tie Ins at Doyle	2 ea	\$625.00	\$1,250.00
Overflow Weir @ end of open ditch (B1) With Rip Rap Channel to Sumps	1 ea	\$2,500.00	\$2,500.00
Wash Crossing @ D to E	150 lf	\$140.00	\$21,000.00
Tie Ins to Glover	1 ea	\$625.00	\$625.00
Tie Ins to North at F	2 ea	\$625.00	\$1,250.00
Wash Crossings at F,G	150 lf	\$100.00	\$15,000.00
Road Crossings at Twin Peaks	100 lf	\$100.00	\$10,000.00
Small ditch tie ins (w/gates) Various locations	6 ea	\$625.00	\$3,750.00
Under drains along ditch (30 lf x 20" CMP) Various locations	6 ea	\$1,200.00	\$9,600.00
		<b>Total =</b>	<b>\$124,675.00</b>

**Kai/AVIDD Ground Water Savings  
Delivery System**

12/4/2001

Section	Length in Feet	Flow	Proposed Conduit	Linear Foot	Cost/LF	Estimated Value
A - B	7,920	30,000 gpm from A to B Approx. elevation change A - B - B1: -81vf	Pipe, gravity flow 36" diameter	7,920	\$65.00	\$514,800.00
B - B1	6,480	2400 gpm from B to B1	Open Ditch 2' bottom 1:1 Sides, 36" depth	6,480	\$22.00	\$142,560.00
B - C	1,000	8000 gpm from B to C Approx. elevation change B - C: -9.6vf	Open Ditch 1' bottom 1:1 Sides, 24" depth	1,000	\$6.00	\$6,000.00
B1 - D	900	24,000 gpm from B1 to D Approx. elevation change B1 - D: -3.8vf	Pipe, pressure flow 30" diameter DIP 80 psi PIP	900	\$50.00	\$45,000.00
D - E	3,800	20,000 gpm from D to E Approx. elevation change D - E: +2.0vf	Pipe, pressure flow 30" diameter DIP 80 psi PIP	3,800	\$50.00	\$190,000.00
E - F	2,100	20,000 gpm from E to F Approx. elevation change E - F: 0vf	Open Ditch 2' bottom 1:1 Sides, 36" depth Intake end to be elevated s=.001	2,100	\$28.00	\$58,800.00
F - Q	5,400	6000 gpm from F to Q Approx. elevation change F - Q: 0vf	Open Ditch 1' bottom 1:1 Sides, 28" depth	5,400	\$12.00	\$64,800.00
J - K	4,200	4000 gpm from J to K Approx. elevation change J - K: -6.2vf	Pipe, pressure flow 24" diameter DIP 80 psi PIP	4,200	\$39.00	\$163,800.00
F - L	6,700	10,000 gpm from F to L Approx. elevation change F - L: -17.0vf	Open Ditch 1' bottom 1:1 Sides, 28" depth	6,700	\$6.50	\$43,550.00
L - M	2,100	4,000 gpm from L to M Approx. elevation change L - M: 0vf	Open Ditch 1' bottom 1:1 Sides, 24" depth (including high berm)	2,100	\$10.50	\$22,050.00
N - P	1,500	8,000 gpm from N to P Approx. elevation change N - P: -4.0vf	Open Ditch 1' bottom 1:1 Sides, 24" depth	1,500	\$6.00	\$9,000.00
Pumping Station D						\$119,000.00
Pumping Station J						\$35,000.00
Road Crossings, Tie-In, Intake and Other Structure						\$124,675.00
<b>Total =</b>						<b>\$1,539,035.00</b>





# CENTRAL ARIZONA PROJECT

P.O. Box 43020 • Phoenix, Arizona 85080-3020 • 23636 North Seventh Street (85024)  
(623) 869-2333 • www.cap-az.com

December 11, 2001

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

Re: Central Arizona Water Conservation District (CAWCD) Comments Regarding the Agreement Between the Arizona Water Banking Authority (AWBA) and the Avra Valley Irrigation District (AVID) Groundwater Savings Facility

Dear Tim:

In response to your request for comments regarding the proposed agreement between the AWBA and Herb Kai for reservation of storage capacity at the Kai/AVID groundwater savings facility, CAWCD provides the following thoughts and questions regarding the proposed agreement. At the present time, the draft agreement contains insufficient information to allow for detailed comments, however, should the agreement move forward, CAWCD will provide the AWBA with more detailed comments.

After review of the draft agreement, we have several questions regarding the underlying assumptions inherent in the agreement. In general, we question the need to develop additional recharge capacity in the Avra Valley area of the Tucson AMA. If it can be demonstrated that additional recharge capacity is necessary, what is the appropriate volume and location for such capacity? Finally, is the cost to develop recharge capacity justified or is it more appropriate to utilize the limited funds available to the AWBA to purchase water for storage at existing Tucson AMA recharge projects. These questions are further explained below.

1. Does the AWBA require additional recharge capacity in the Tucson AMA? If so, how much additional capacity is needed?

Based on the AWBA 1998 Facility Plan for the Tucson AMA, the AWBA needs to store from 35,000 to 40,000 acre-feet of water annually for 18 years to accrue sufficient credits to meet the M&I firming requirements in the TAMA. There is currently 71,000 acre-feet of permitted State Demonstration Project recharge capacity in the TAMA available to the AWBA and other customers. By 2002,

CAWCD intends to add another 10,000 to 15,000 acre-feet of capacity in the Tucson AMA by modifying the Lower Santa Cruz Recharge Project permit bringing the total Tucson AMA recharge capacity to approximately 86,000 acre-feet. Therefore, twice the stated capacity required by the AWBA is already constructed and available for use in 2002. The AWBA is currently taking advantage of this capacity and has scheduled 57,500 acre-feet of CAP water for recharge during 2002 in the three State Demonstration projects in the Tucson AMA.

If the AWBA anticipates requiring additional capacity, it seems appropriate that the 1998 Facility Plan be amended through a public process to evaluate the additional capacity required by the AWBA.

2. If the AWBA requires additional recharge capacity in the Tucson AMA, is the AVID project located in the most beneficial location?

It is unclear if the AVID project is located in the most beneficial location. The proposed project is located in the Avra Valley Basin portion of the Tucson AMA. At present, there is substantial State Demonstration Project capacity available to the AWBA in the Avra Valley Basin. This is in addition to the City of Tucson's Underground Storage Facility and groundwater savings facilities also located in the basin. A thorough discussion with users in the Tucson AMA should be undertaken to identify the most appropriate location for additional recharge capacity, to the extent that additional recharge capacity is necessary to meet the AWBA needs.

3. What is the total cost the AWBA will pay to fund construction of the AVID conveyance system, and what are the sources of funding for the turnout and conveyance system?

The total cost of the project is not included in the draft agreement; however, the Hunter Contracting cost estimate provided to the IPAG by Herb Kai indicates the cost will conservatively exceed \$1.5 million. It is not clear if any steps are being taken by the AWBA to require a design and value engineering review conducted by a qualified engineering firm or a more exact cost estimate. The estimate also appears to lack costs for a pump station or turnout, a flow metering station at the CAP aqueduct, engineering designs, permitting, right of way lease costs and contingencies.

Without knowing the portion of construction costs the AWBA will contribute, or the volume of capacity available for use by the AWBA, the total unit cost of storage cannot be determined. A thorough cost/benefit analysis should be

Mr. Tim Henley  
December 11, 2001  
Page 3

completed to determine if funding construction of the AVID system by the AWBA is justified.

4. If storage at the Kai/AVID project will reduce the AWBA's use of State Demonstration facilities, has the resulting impact on lease rates for remaining use of the State Demonstration facilities been analyzed?

Monitoring and general maintenance costs at a State Demonstration facility are relatively constant regardless of the volume stored in any given year. Therefore, a reduction in the AWBA's storage at a facility may have the effect of raising the per-acre-foot cost to the remaining users, including the AWBA. Therefore, the potential cost savings derived through storage at the proposed Kai/AVID project may be offset by increased costs at the State Demonstration facility.

5. What will happen to the conveyance system when the Agreement expires?

The AWBA is proposing to invest a significant amount of public funds to, in effect, finance the construction of a CAP distribution system for a private entity. The conveyance system will still have value when the Bank can no longer store water at the Groundwater Savings Facility. Since the Bank cannot own the facility, does this mean that Kai Farms will own outright the conveyance system that has been financed with public funds? Is there some mechanism to vest ownership of this conveyance system in a public entity and dedicate its use to the water management objectives of the Tucson Active Management Area, rather than gifting this infrastructure to a private entity? If this can be accomplished, does it make sense to re-evaluate the inclusion of recovery capability into the design?

I hope these questions and thoughts are useful as you continue to weigh the benefits of entering into an agreement on the Kai/AVID project. Please let me know if we can provide you with any assistance.

Sincerely,



John D. Newman  
Assistant General Manager

G:\harbour\avid comments to awba.doc  
860

cc: Chuck Cahoy, ADWR  
Linda Stitzer, Director, TAMA



# CENTRAL ARIZONA PROJECT

P.O. Box 43020 • Phoenix, Arizona 85080-3020 • 23636 North Seventh Street (85024)  
(623) 869-2333 • www.cap-az.com

December 11, 2001

Ms. Linda Stitzer  
Tucson Active Management Area Director  
Arizona Department of Water Resources  
400 West Congress, #518  
Tucson, AZ 85701

Re: Central Arizona Project Comments Regarding the Agreement Between the  
Arizona Water Banking Authority (AWBA) and the Avra Valley Irrigation District  
(AVID) Groundwater Savings Facility

Dear Linda:

It has come to my attention that, at the Institutional and Policy Advisory Group (IPAG) meeting on December 4, 2001, Mr. Tim Henley of the Arizona Water Banking Authority (AWBA) presented information regarding a proposed agreement between the AWBA and Herb Kai for use of the Kai/ Avra Valley Irrigation District (AVID) groundwater savings facility. As part of Mr. Henley's presentation, he apparently indicated that the Central Arizona Project (CAP) opposes the proposed agreement. I am writing this letter to clarify that CAP has not adopted a formal position on the proposed agreement, nor the project in general. In fact, at present, the draft agreement contains insufficient information to allow for detailed comments. However, based on our preliminary review of a draft agreement, CAP does have some concerns that we have provided to Mr. Henley. For your information, I have attached a letter that I sent to Mr. Henley outlining our questions and concerns.

CAP supports thoughtful and thorough public discussion regarding the development of new publicly-funded projects and appreciates the IPAG's role in providing a forum for such discussion. We look forward to participating in further discussion of this proposed agreement and future projects as they are identified by CAP, AWBA and others.

Sincerely,

John D. Newman  
Assistant General Manager

G:\harbour\avid ipag comments.doc  
860

Enclosure

Cc: Tim Henley

**DRAFT**

# STORAGE AND INTERSTATE RELEASE AGREEMENT

among

The United States of America, acting through the Secretary of the Interior; the Arizona Water Banking Authority; the Southern Nevada Water Authority; and the Colorado River Commission of Nevada

## Recitals

- A. The Secretary of the United States Department of the Interior (Secretary) has authorized the United States Bureau of Reclamation, Lower Colorado Region, to execute and administer Storage and Interstate Release Agreements on behalf of the United States pursuant to 43 CFR 414. References to the Secretary in this Agreement include the United States Bureau of Reclamation, Lower Colorado Region.
- B. The Arizona Water Banking Authority (AWBA) is expressly authorized by A.R.S. § 45-2401 *et seq.* to enter into Storage and Interstate Release Agreements and develop Intentionally Created Unused Apportionment. 43 CFR 414.2(1).
- C. The Southern Nevada Water Authority (SNWA) is a Nevada joint powers agency and political subdivision of the State of Nevada, created by agreement dated July 25, 1991, as amended November 17, 1994 and January 1, 1996, pursuant to N.R.S. §§ 277.074 and 277.120. SNWA is authorized by N.R.S. § 538.186 to enter into this Agreement and, pursuant to its contract issued under section 5 of the Boulder Canyon Project Act of 1928, SNWA has the right to divert Intentionally Created Unused Apportionment released by the Secretary for use within the State of Nevada pursuant to Article II(B)(6) of the Decree in *Arizona v. California*, 376 U.S. 340, 343 (1964).
- D. The Colorado River Commission of the State of Nevada (CRCN) is an agency of the State of Nevada, authorized generally by N.R.S. §§ 538.041 and 538.251. CRCN is authorized by N.R.S. § 538.186 to enter into this Agreement. The CRCN, in furtherance of the State of Nevada's responsibility to promote the health and welfare of its people in Colorado River matters, enters into this Agreement to facilitate the banking of Colorado River water, the creation of Long-term Storage Credits and the establishment and maintenance of a Long-term Storage Account for SNWA.

**DRAFT**

- E. On July 3, 2001, AWBA, SNWA, and CRCN entered into an Agreement for Interstate Water Banking for the purpose of creating a program of interstate banking of Colorado River water in Arizona for the benefit of SNWA. Under this program, AWBA will acquire and store mainstream Colorado River water in Arizona, creating Long-term Storage Credits to be held for SNWA in an account established with ADWR, and at a later date recover the Long-term Storage Credits and exchange the recovered water with Colorado River water users in Arizona to develop Intentionally Created Unused Apportionment.
- F. The Boulder Canyon Project Act and Article II(B)(6) of the Decree, taken together, authorize the Secretary to release unused Arizona apportionment for use in Nevada. Pursuant to such authority and for the purpose of increasing the efficiency, flexibility, and certainty of Colorado River management and thereby helping satisfy the regional water demands that exist in the area served by SNWA, the Secretary promulgated regulations (43 CFR Part 414) to establish a procedural framework for facilitating interstate off-stream banking transactions, including a commitment by the Secretary to release Intentionally Created Unused Apportionment as a part of such transactions, consistent with those regulations.
- G. Intentionally Created Unused Apportionment released under this Agreement will provide SNWA with a supplemental water supply that is critical to the economy, health and safety of the area served by SNWA pending the development of other long-term sources of water supply.

**Article 1**  
**Definitions, Definition of “Water Stored” and Term**

- 1.1 Definitions. The following terms shall have the meaning defined here. All defined terms shall be identified by initial letter capitalization.
  - 1.1.1 “ADWR” shall mean the Arizona Department of Water Resources.
  - 1.1.2 “Agreement” shall mean this Storage and Interstate Release Agreement.
  - 1.1.3 “Agreement for Development of Intentionally Created Unused Apportionment” shall mean that agreement between AWBA and the Central Arizona Water Conservation District dated \_\_\_\_\_.
  - 1.1.4 “Agreement for Interstate Water Banking” shall mean that agreement among AWBA, SNWA and CRCN dated July 3, 2001.

# DRAFT

- 1.1.5 “AWBA” shall mean the Arizona Water Banking Authority.
  - 1.1.6 “AWBA Plan of Operation” shall mean the plan by which AWBA shall operate during the Year as defined in A.R.S. § 45-2456.
  - 1.1.7 “CAP” shall mean the Central Arizona Project, as authorized by the Colorado River Basin Project Act, 43 U.S.C. § 1501 *et seq.*
  - 1.1.8 “CAWCD” shall mean the Central Arizona Water Conservation District.
  - 1.1.9 “CRCN” shall mean the Colorado River Commission of Nevada.
  - 1.1.10 “Decree” shall mean the Decree entered by the United States Supreme Court in *Arizona v. California*, 376 U.S. 340 (1964), as supplemented or amended.
  - 1.1.11 “Entitlement Holder” shall mean a holder of an authorization to beneficially use Colorado River water pursuant to (I) the Decree, (ii) a water delivery contract with the United States through the Secretary; or (iii) a reservation of water from the Secretary.
  - 1.1.12 “ICUA” shall mean Intentionally Created Unused Apportionment as that term is defined in 43 CFR 414.
  - 1.1.13 “Long-term Storage Credit” shall mean Long-term Storage Credit as defined in A.R.S. § 45-802.01.
  - 1.1.14 “SNWA” shall mean the Southern Nevada Water Authority.
  - 1.1.15 “SNWA Interstate Account” shall mean the Long-term Storage Credit Sub-account established by AWBA with ADWR under the terms of this Agreement and the Agreement for Interstate Water Banking.
  - 1.1.16 “Storage Facility” or “Storage Facilities” shall mean an Underground Storage Facility or a Groundwater Savings Facility as those terms are defined in A.R.S. § 45-802.01.
  - 1.1.17 “Year” shall mean calendar year.
- 1.2 Definition of “water stored” Under this Agreement
- 1.2.1 For purposes of this Agreement, the amount of “water stored” shall

be equivalent to the amount of Long-term Storage Credits recognized as being credited to the SNWA Interstate Account by ADWR under applicable Arizona law. The parties acknowledge that this definition of “water stored” means the amount of recoverable water as defined in A.R.S. § 45-852.01 less any amount deducted under applicable Arizona law in the administration of the state regulatory framework. Thus, the amount of “water stored” under this agreement will always be less than the amount of water diverted for storage. As between AWBA and SNWA, the amount of credits in the SNWA Interstate Account shall be maintained in accordance with the Agreement for Interstate Water Banking.

### 1.3 Term of the Agreement

- 1.3.1 This Agreement shall commence on the date of execution by all parties and shall continue until June 1, 2050, or until termination of the Agreement for Interstate Water Banking, whichever is sooner.

## **Article 2 Water Available for Storage**

- 2.1 Water available for storage for purposes of this Agreement shall be within either (i) the State of Arizona’s basic or surplus apportionment, apportioned to the State of Arizona under Articles II(B)(1) or II(B)(2) of the Decree; or (ii) the State of Nevada’s unused basic or surplus apportionment, apportioned to the State of Nevada under Articles II(B)(1) and II(B)(2) of the Decree and released to the State of Arizona under Article II(B)(6) of the Decree.
- 2.2 Water apportioned to the State of Nevada under Articles II(B)(1) and II(B)(2) of the Decree may be used for storage in the State of Arizona under this Agreement in accordance with 43 CFR 414.3(a)(3) only if the following conditions are met:
- 2.2.1 The Secretary has decided that such unused Nevada apportionment shall be released for Consumptive Use within Arizona under Article II(B)(6) of the Decree.
- 2.2.2 The AWBA has agreed that it will accept delivery of such water and store it for the benefit of SNWA in accordance with the terms of the Agreement for Interstate Water Banking.
- 2.3 Before any water is diverted from the Colorado River for storage under this



**DRAFT**

Agreement, it shall first be offered to all Entitlement Holders within Arizona for diversion within their entitlements for purposes other than interstate transactions as provided in 43 CFR 414.3(a)(2).

- 2.4 The water available for storage shall be diverted from the Colorado River and delivered to Storage Facilities by CAWCD, utilizing CAP facilities constructed by the United States.

### **Article 3**

#### **Storage Facilities and Accrual of Long-term Storage Credits**

- 3.1 AWBA shall store water for the benefit of SNWA pursuant to the Agreement for Interstate Water Banking. All water shall be stored in the Storage Facilities for which AWBA has or then has storage agreements. 43 CFR 414.3(a)(1). A listing of the potential Storage Facilities to be utilized is provided in the AWBA storage facilities inventory dated March 1, 1997. Additional storage facilities may be needed for Arizona use. If such facilities are permitted by ADWR and developed by Arizona entities, and if AWBA chooses to use those Storage Facilities for interstate banking, AWBA shall update the 1997 Facility Inventory to include those additional facilities. If the 1997 Facility Inventory is updated, unused storage capacity at those additional facilities may be used for interstate water banking.
- 3.2 The Storage Facilities utilized in each Year shall be identified in the AWBA Plan of Operation.
  - 3.2.1 The AWBA Plan of Operation may be modified in accordance with A.R.S. § 45-2456 subject to the provisions of the Agreement for Interstate Water Banking.
  - 3.2.2 AWBA shall notify the Secretary in writing of any change in the AWBA Plan of Operation that may affect the amount or location of water to be stored under the Agreement for Interstate Water Banking.
- 3.3 AWBA shall establish a Long-term Storage Sub-Account with ADWR entitled the "SNWA Interstate Account." AWBA shall manage the SNWA Interstate Account so as to accommodate the storage and recovery of water for the benefit of SNWA in the manner provided in this Agreement and the Agreement for Interstate Water Banking. AWBA shall ensure that ADWR timely and properly credits or debits the SNWA Interstate Account with the correct number of Long-term Storage Credits under applicable Arizona law for each Year. AWBA shall ensure that the Year-end balance of Long-term Storage Credits in the SNWA

Interstate Account is correct.

- 3.3.1 Except as provided in this sub-article 3.3, SNWA shall not be entitled to the storage of water under this Agreement or the assignment of existing Long-term Storage Credits pursuant to sub-article 3.3.4 to the extent such storage or assignment would result in Long-term Storage Credits credited to the SNWA Interstate Account in excess of 200,000 af in any Year, or in excess of 1,200,000 af over the entire period of this Agreement.
  - 3.3.2 On the effective date of this Agreement, SNWA shall be entitled to have all Long-term Storage Credits held by CAWCD for SNWA pursuant to [name and date of agreement] transferred to AWBA for credit to the SNWA Interstate Account. The Long-term Storage Credits transferred to AWBA under this sub-article shall not be counted for purposes of determining whether either of the limitations specified in sub-article 3.3.1 has been exceeded.
  - 3.3.3 During the term of this Agreement, AWBA may cause the assignment of Long-term Storage Credits into and out of the SNWA Interstate Account by notifying ADWR of such assignment. If an equal number of Long-term Storage Credits are transferred into and out of the SNWA Interstate Account in a single transaction with ADWR, then the transaction shall not be counted for purposes of determining whether either of the limitations specified in sub-article 3.3.1 has been exceeded.
  - 3.3.4 During the term of this Agreement, Long-term Storage Credits may be assigned to AWBA for credit to the SNWA Interstate Account for purposes of increasing the number of Long-term Storage Credits available to SNWA. Any such assignment must have the consent of AWBA. If Long-term Storage Credits are assigned to AWBA for credit to the SNWA Interstate Account under this sub-article, those credits shall be counted for purposes of determining compliance with both of the limitations specified in sub-article 3.3.1.
- 3.4 The provisions of this sub-article 3.4 shall govern reports by AWBA to the Secretary and their incorporation into the Secretary's accounting under Article V of the Decree.
- 3.4.1 By December 31 of each Year, AWBA shall provide the Secretary with an estimate of the Long-term Storage Credits to be developed for and credited to the SNWA Interstate Account in the following Year. AWBA shall update that estimate monthly during the course

of the Year and provide a final estimate at the end of each Year. The estimate and updates are to be considered provisional until AWBA makes its final annual accounting to the Secretary by September 1 of the following Year. The estimate and updates published by the Secretary shall contain a notation that they are provisional estimates for informational purposes only.

- 3.4.2 AWBA shall prepare and submit to the Secretary and the Lower Division States by September 1 of each Year a final verified accounting for the prior Year of: (i) the beginning balance of Long-term Storage Credits in the SNWA Interstate Account; (ii) the amount of Colorado River water diverted from the mainstream for the purpose of interstate water banking in that year, and the amount of Long-term Storage Credits properly credited to the SNWA Interstate Account resulting from that diversion; (iii) any Long-term Storage Credits properly transferred to or from the SNWA Interstate Account under sub-article 3.3.2., 3.3.3 or 3.3.4.; (iv) any Long-term Storage Credits debited from the SNWA Interstate Account during that Year under sub-article 5.9; (v) the net Long-term Storage Credits in the SNWA Interstate Account at the end of the Year; and (vi) the cumulative amount of Long-term Storage Credits properly credited to the SNWA Interstate Account for purposes of determining compliance with the 1,200,000 maximum credit accrual specified in sub-article 3.3.1.
- 3.4.3 The parties agree that submission by AWBA of a report in compliance with sub-article 3.4.2 shall also constitute compliance with the requirements of 43 C.F.R. §414.4(a) as it is in effect on the date of execution of this Agreement.
- 3.4.4 The Secretary shall include a supplement to the Secretary's annual Article 5 Decree accounting report titled "Water Stored in Arizona for the Benefit of SNWA." The supplement shall reflect the provisional Long-term Storage Credits identified in the AWBA reports submitted pursuant to sub-article 3.4.1 and the verified Long-term Storage Credits identified in the AWBA final verified accounting submitted pursuant to sub-article 3.4.2. For purposes of the Secretary's accounting under Article V of the Decree, the verified Long-term Storage Credits in the SNWA Interstate Account shall constitute the quantity of "Water stored in Arizona for the Benefit of SNWA."
- 3.4.5 All records of AWBA concerning the amount of water stored in that Year, including all records used by AWBA to prepare the final

verified accounting, shall be available for inspection by the Secretary.

- 3.5 Accrual of Long-term Storage Credits in the SNWA Interstate Account at certain Storage Facilities does not mean that those Long-term Storage Credits will be recovered at those same Storage Facilities. Recovery of Long-term Storage Credits shall be in accordance with the Agreement for Interstate Water Banking, the Agreement for Development of Intentionally Created Unused Apportionment, and applicable Arizona law.

## **Article 4**

### **Development of Intentionally Created Unused Apportionment**

- 4.1 AWBA shall develop ICUA for the benefit of SNWA in accordance with the provisions of this Agreement, the Agreement for Interstate Water Banking and the Agreement for Development of Intentionally Created Unused Apportionment. All actions that AWBA takes to develop ICUA shall be consistent with the laws of the State of Arizona.
- 4.2 AWBA shall only use means to develop ICUA under this Agreement that have been approved by the Secretary. Two such approved means are the recovery and exchange method and the credit exchange method . AWBA may also use any other means of developing ICUA approved by the Secretary during the term of this Agreement .
- 4.2.1 The recovery and exchange method requires that Long-term Storage Credits in the SNWA Interstate Account be recovered and the recovered water exchanged for Colorado River water that would otherwise have been delivered through the CAP in the Year in which the ICUA is developed. The Long-term Storage credits may be recovered by CAWCD or by another entity scheduled to receive water from CAWCD in the Year of recovery.
- 4.2.2 The credit exchange method requires that Long-term Storage Credits in the SNWA Interstate Account be exchanged for Colorado River water that would otherwise have been delivered through the CAP for underground storage in that Year. The recipient of the credits shall be an entity scheduled to receive water from CAWCD for purposes of underground storage in the Year of recovery.
- 4.3. AWBA shall prepare an Interstate Recovery Schedule in accordance with the terms of the Agreement for the Development of Intentionally Created Unused Apportionment and the Agreement for Interstate Water Banking. AWBA shall

meet and confer with the Bureau of Reclamation in the preparation of the Interstate Recovery Schedule.

- 4.4 The Interstate Recovery Schedule shall set forth the means by which AWBA intends to create ICUA. If AWBA intends to create ICUA using the recovery and exchange method, then the Interstate Recovery Schedule shall demonstrate that there is sufficient recovery capacity to recover the necessary Long-term Storage Credits from the SNWA Interstate Account and shall describe how the credits will be recovered and delivered through the CAP or how the credits will be recovered by individual CAP customers in lieu of their scheduled CAP deliveries. If AWBA intends to create ICUA using the credit exchange method, then the Interstate Recovery Schedule shall demonstrate that CAWCD has received sufficient orders for the delivery of Colorado River water for underground storage and shall identify the entity or entities accepting the transfer of Long-term Storage Credits in lieu of the delivery of Colorado River water. If AWBA intends to create ICUA using another method approved by the Secretary, then the Interstate Recovery Schedule shall include such information as required by the Secretary for that method.
- 4.5 AWBA shall require that any Agreement for Development of Intentionally Created Unused Apportionment contain a provision requiring CAWCD to accept Long-term Storage Credits from the SNWA Interstate Account in exchange for Colorado River water that would have otherwise been diverted into the CAP by CAWCD, and to reduce its consumptive use of Colorado River water in accordance with that exchange. The Agreement for Development of Intentionally Created Unused Apportionment shall allow CAWCD to meet all scheduled deliveries to Indian contractors, CAWCD subcontractors and excess CAP water users, through a combination of Colorado River water and recovered Long-term Storage Credits. 43 CFR 414.3(a)(8)(I).
- 4.6 AWBA shall require that any Agreement for Development of Intentionally Created Unused Apportionment also provide that any Long-term Storage Credits accepted by CAWCD pursuant to this Article 4 shall be accounted for by CAWCD as water diverted from the Colorado River for purposes of determining the amount of water that CAWCD may lawfully divert from the Colorado River in that Year.
- 4.7 By December 1 of any year in which SNWA has made a final request for development of ICUA under the Agreement for Interstate Water Banking, AWBA shall prepare and deliver to Secretary three certifications: (i) a Development of ICUA Certification (ii) an Interstate Recovery Schedule Certification and (iii) an Upcoming Year Delivery Certification. These three certifications may be combined in a single document.

# DRAFT

- 4.7.1 The Development of ICUA Certification shall certify: (i) that sufficient Long-term Storage Credits exist in the SNWA Interstate Account to support the development of the requested ICUA; (ii) that ICUA will be developed in the upcoming Year in an amount equal to the request using an approved means; (iii) that such ICUA otherwise would not exist; and (iv) that the notice under sub-Article 4.12 has been given. The Development of ICUA Certification shall request that the Secretary release the ICUA for use in Nevada pursuant to this Agreement.
- 4.7.2 The Interstate Recovery Schedule Certification shall state that the Interstate Recovery Schedule has been prepared after consultation with the Bureau of Reclamation, and that the Interstate Recovery Schedule sets forth the means by which AWBA intends to develop ICUA utilizing Long-term Storage Credits in the SNWA Interstate Account. The Interstate Recovery Schedule Certification shall certify that the contractual commitments by CAWCD necessary to develop ICUA remain in full force and effect and that CAWCD will reduce its consumptive use of Colorado River water in the amount of the requested ICUA. A copy of the Interstate Recovery Schedule shall be included with the Interstate Recovery Schedule Certification.
- 4.7.3 The Upcoming Year Delivery Certification shall indicate the amount of water ordered by CAWCD in the upcoming Year and quantify how that order will be satisfied with diversions from the Colorado River and Long-term Storage Credits from the SNWA Interstate Account. The Upcoming Year Delivery Certification shall state that Arizona's consumptive use of Colorado River water will be decreased by a quantity sufficient to develop the requested ICUA.
- 4.8 Once AWBA certifies to the Secretary that ICUA will be developed during the Year of release, AWBA shall take all actions necessary in the following Year to ensure that ICUA is developed in accordance with such certifications. By \_\_\_\_\_ of the Year after ICUA is developed, AWBA shall submit to the Secretary a report documenting how ICUA was created in the previous Year and confirming that the amount of ICUA set forth in the Interstate Recovery Schedule was developed .
- 4.9 SNWA may not request the development of ICUA in an amount that exceeds the quantity of Long-term Storage Credits available in the SNWA Interstate Account.
- 4.10 The quantity of ICUA released for use in any Year shall not exceed 100,000 acre feet.

# DRAFT

- 4.11 In years in which the Secretary has determined a shortage under Article II(B)(3) of the Decree, AWBA's obligation to develop ICUA shall be limited as provided in the Agreement for Interstate Water Banking.
- 4.12 AWBA shall give notice to Entitlement Holders in Arizona, including Indian Tribes, that SNWA has requested the development of ICUA. The notice shall state which means permitted under this Article will be used to develop ICUA. Whether and what opportunities exist for Entitlement Holders in Arizona, including Indian Tribes, to develop ICUA will depend upon the means selected. The notice shall identify any opportunities for Entitlement Holders in Arizona, including Indian Tribes, to participate in the development of ICUA associated with the particular means selected. AWBA shall provide this notice by first class mail to Entitlement Holders in Arizona, or by such other means as are acceptable to the Secretary.
- 4.13 If AWBA does not create ICUA as promised under this Article, AWBA shall create ICUA in another Year to repay to Lake Mead storage the amount of ICUA diverted by SNWA but not created by AWBA. The Secretary, in addition to any other remedy available, may seek a court order requiring AWBA to do so. The Year of repayment shall be at the discretion of the Secretary, but shall not be more than five years after the year in which the shortfall occurred.

## **Article 5**

### **Release of Intentionally Created Unused Apportionment**

- 5.1 SNWA shall make a written request of the Secretary for the release of ICUA for consumptive use in the State of Nevada. Such request shall be made by September 15 of the current Year, or an earlier date as reasonably required in writing by the Secretary, for a release of ICUA in the following Year. The request shall specify the quantity of ICUA to be released by the Secretary and shall certify that SNWA has mailed, first class postage paid, a copy of the request to the Arizona Department of Water Resources and the Colorado River Board of California. A copy of the request shall be provided to AWBA. To make a proper and timely request, SNWA must be in compliance with the terms of the Agreement for Interstate Water Banking.
- 5.2 Before making a request to release ICUA under sub-article 5.1, SNWA shall make a preliminary request for the development of ICUA in accordance with the terms of the Agreement for Interstate Water Banking. Such preliminary request shall be in writing and shall specify the quantity of the requested ICUA. A copy of such preliminary request shall be provided to the Secretary at the same time that it is made to AWBA.

# DRAFT

- 5.3 The preliminary request for the development of ICUA by SNWA shall be incorporated into the Secretary's Annual Operating Plan for the Colorado River. The Annual Operating Plan shall state that, upon proper certification, the Secretary intends to release that quantity of ICUA to SNWA under Article II(B)(6) of the Decree in accordance with the terms of this Agreement.
- 5.4 Release of ICUA under this Agreement for diversion by SNWA shall operate under 43 CFR Part 414.3(f), *Anticipatory Release of ICUA*, as provided in this article.
- 5.5 By December 20 of the current Year, following receipt of a proper and timely request for release ICUA under sub-Article 5.1, the Secretary shall determine whether AWBA has elected a means for developing ICUA approved under Article 4, and whether all necessary actions required by 43 CFR Part 414 have been taken. For purposes of this Agreement, all necessary actions are those actions expressly enumerated in 43 CFR Part 414, as amplified by this Agreement.
- 5.5.1 The Secretary shall determine whether the certifications made by AWBA meet the requirements under sub-article 4.7. Upon so determining, the Secretary shall issue a notice of determination that shall authorize the release for diversion of the quantity of ICUA so certified for consumptive use in the State of Nevada. The release of ICUA under this sub-article shall be effective as of January 1 of the following Year.
- 5.5.2 If the Secretary determines that the proper certifications have not been made under sub-article 4.7, or that all necessary actions under 43 CFR Part 414 have not been taken, the notice of determination shall (i) specify which certifications or necessary actions are deficient, the nature of the deficiency, and the basis for such determination; (ii) specify the extent to which such deficiencies preclude the release of ICUA requested by SNWA for consumptive use in Nevada effective as of January 1 of the following Year; and (iii) determine whether any quantity of ICUA is available for release in the following year. If a quantity of ICUA is available for release under (iii), the notice shall authorize the release of the quantity of ICUA to SNWA for consumptive use in the State of Nevada, effective on January 1 of the following year.
- 5.5.3 Any portion of ICUA not authorized for release in the notice of determination made by the Secretary under this sub-article shall be released for diversion by the Secretary on such date as the Secretary determines that the stated deficiencies have been cured.



# DRAFT

- 5.6 The Secretary shall provide notice of the determination under sub-article 5.5 on or before December 20 of the current Year. If the Secretary fails to provide written the notice of a determination required by sub-Article 5.5 by December 20, SNWA may seek judicial relief and shall be deemed to have exhausted any applicable administrative remedy and shall be free to seek any remedies available to it under applicable law.
- 5.7 ICUA shall be released to SNWA only in the Year and to the extent that ICUA is developed by AWBA, or for an anticipatory release, will be developed by AWBA as certified to the Secretary in accordance with Article 4.7, by reducing Colorado River water use within the State of Arizona.
- 5.8 Once the Secretary has determined that ICUA will be released to SNWA under sub-article 5.5, such ICUA shall not be available for release to any Entitlement Holder in the States of Arizona or California in that Year.
- 5.9 In any Year in which the Secretary has released ICUA to SNWA under this Article 5, AWBA shall cause the assignment of credits from the SNWA Interstate Account in accordance with the Interstate Recovery Schedule. By December 31 of that Year, AWBA shall ensure that all assignments from the SNWA Interstate Account have been made and properly debited by ADWR.
- 5.10 The amount of ICUA released for consumptive use in Nevada effective January 1 of any Year shall not be subject to reduction unless:
  - 5.10.1 SNWA requests that AWBA cease development of ICUA under the terms of the Agreement for Interstate Water Banking; and
  - 5.10.2 AWBA certifies to the Secretary that, pursuant to a SNWA request, a specific quantity of Long-term Storage Credits will not be recovered or exchanged for Colorado River water pursuant to an SNWA request.
- 5.11 ICUA that has been developed by the AWBA and released by the Secretary for diversion by SNWA in a particular Year but not diverted by SNWA for consumptive use in that Year may not be carried forward and diverted by SNWA in any succeeding Year.
- 5.12 The Secretary shall release ICUA developed by AWBA in accordance with the request of the SNWA, the terms of this Agreement, the determination of the Secretary under sub-article 5.5 of this Agreement, the Boulder Canyon Project Act, Article II(B)(6) of the Decree and all other applicable Federal laws and executive orders.

**DRAFT**

**Article 6  
General Provisions**

- 6.1 Upon execution of this Agreement and annually thereafter, SNWA shall pay an annual administration fee of two thousand dollars (\$2,000.00) to cover the United States' costs to perform the routine tasks necessary to administer this Agreement. The initial annual administration fee shall be pro-rated on the basis of one hundred sixty six dollars and sixty seven cents (\$166.67) per month for the first year, payable upon execution of this Agreement. Thereafter, the fee for each subsequent year shall be due on January 1.
- 6.2 The Secretary reserves the right at intervals of five (5) years, beginning five (5) years after the date of execution of this Agreement, to reexamine the annual administration fee and to revise the fee after three (3) months advance written notice and after consultation with SNWA if the Secretary determines that a different charge is necessary to cover the United States' costs to perform the tasks described in this Agreement. Upon SNWA's written request, the Secretary shall provide SNWA with a detailed cost analysis supporting the adjustment to the annual administration fee.
- 6.3 The annual administration fee shall cover, but is not limited to, the costs for the following tasks routinely performed by the Secretary:
- 6.3.1 Determining when unused Nevada apportionment is available for release for consumptive use within Arizona pursuant to Article II(B)(6) of the Decree for purposes of storage pursuant to this Agreement, and releasing that unused apportionment;
  - 6.3.2 Preparing, maintaining and reviewing records of unused apportionment stored.
  - 6.3.3 Reviewing AWBA's notices of opportunities for Colorado River water users in Arizona to participate in the development of ICUA;
  - 6.3.4 Reviewing certifications from AWBA that ICUA has been or will be developed;
  - 6.3.5 Determining that all necessary actions have been taken to implement 43 CFR 414; and
  - 6.3.6 Reviewing SNWA's requests for release of ICUA and scheduling delivery of ICUA to SNWA.
- 6.4 The Secretary recognizes that the Decree must be enforced fairly with respect to

# DRAFT

all Entitlement Holders. Excess diversion by an Entitlement Holder that is not participating in a Storage and Interstate Release Agreement other than through the CAP facilities cannot be offset by reducing diversions to another Entitlement Holder for the sole reason that the latter Entitlement Holder is participating in a Storage and Interstate Release Agreement.

- 6.5 In the event any inconsistency is found between this Agreement and the Agreement for Interstate Water Banking, as initially executed and as it may be amended, regarding the rights and obligations as between AWBA and SNWA, the provisions of this Agreement shall control. No agreement to which the Secretary is not a party shall be construed as altering the rights and obligations as between the Secretary and the other parties to this Agreement.
- 6.6 The records of any party to this Agreement that relate to the storage and recovery of water, including the development and verification of Long-term Storage Credits, and the creation, release and use of ICUA shall be open to inspection by any other party. AWBA shall require that any Agreement for Development of Intentionally Created Unused Apportionment with CAWCD provide that the records of CAWCD relating to the development of ICUA shall be open to reasonable inspection by any party to this Agreement.
- 6.7 The provisions of this sub-article shall govern enforcement of this Agreement.
  - 6.7.1 Time is of the essence in the performance of this Agreement.
  - 6.7.2 The parties recognize and acknowledge that the availability of ICUA as provided in this Agreement is a critical alternative municipal water supply for SNWA while other longer-term sources of supply are being developed; that in planning to meet the needs of the area it serves, SNWA will rely on ICUA being available to it as provided in this Agreement; that accordingly the release of ICUA as provided in Article 5 is critical to the economy, health and safety of the area served by SNWA; that the release of ICUA as provided in this Agreement presents a unique opportunity for SNWA to obtain additional Colorado River water under the Decree; and that, for these reasons, among others, the water resources to be released as ICUA for use in Nevada are unique and not susceptible to replacement by SNWA.
- 6.8 The expenditure or advance of any money or the performance of any obligation of the United States under this Agreement shall be contingent on appropriation or allotment of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted. Absence of appropriation or allotment of funds shall not relieve AWBA, SNWA, or CRCN from any obligation under this

*DRAFT*

Agreement.

- 6.9 No member of or Delegate to Congress, Resident Commissioner, or official of AWBA, SNWA, or CRCN shall benefit from this Agreement other than as a water user or landowner in the same manner as other water users or landowners.
- 6.10 The parties to this Agreement shall indemnify the United States, its employees, agents, subcontractors, successors, or assignees from loss or claims for damages and from liability to persons or property, direct or indirect, and loss or claim of any nature whatsoever arising by reason of actions taken by non-Federal parties to this Agreement.
- 6.11 The parties to this Agreement are hereby notified of Arizona Revised Statutes section 38-511.
- 6.12 The parties to this Agreement recognize and acknowledge that this Agreement is a contract executed pursuant to Federal Reclamation law, including the provisions of 43 U.S.C. § 390uu.
- 6.13 This Agreement shall not constitute approval by the Secretary of any other agreement or water delivery program.
- 6.14 Nothing in this Agreement affects the rights of any Colorado River Entitlement Holder.
- 6.15 No party to this Agreement shall be considered to be in default in the performance of any obligations under this agreement when a failure of performance shall be due to uncontrollable forces. The term “uncontrollable force” shall mean any cause beyond the control of the party unable to perform such obligation, including but not limited to failure or threat of failure of facilities, flood, earthquake, storm, fire, lightning, and other natural catastrophes, epidemic, war, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by order of a court or regulatory agency of competent jurisdiction, and action or non-action by, or failure to obtain the necessary authorizations or approvals from, a Federal governmental agency or authority, which by exercise of due diligence and foresight such party could not reasonably have been expected to overcome. Nothing contained herein shall be construed to require any party to settle any strike or labor dispute in which it is involved.
- 6.16 Non-Federal parties to this Agreement may assign their interest in this Agreement, in whole or in part, to other authorized entities, subject to the approval of all other parties to this Agreement.

**DRAFT**

**Article 7  
Notices**

7.1 Notices, Requests and Payments

7.1.1 All notices and requests required or allowed under the terms of this Agreement shall be in writing and shall be mailed first class postage paid to the following entities at the following addresses:

AWBA: Arizona Water Banking Authority  
500 North Third Street  
Phoenix, Arizona 85004  
Attn: Manager

SNWA: Southern Nevada Water Authority  
1001 S. Valley View Boulevard  
Las Vegas, Nevada 89153  
Attn: General Manager

CRCN: Colorado River Commission of Nevada  
555 E. Washington Avenue, Suite 3100  
Las Vegas, Nevada 89101  
Attn: Director

Secretary: U.S. Department of the Interior  
Bureau of Reclamation  
Lower Colorado Regional Office  
P.O. Box 61470  
Boulder City, Nevada 89006  
Attn: Regional Director

The State of Arizona:

Arizona Department of Water Resources  
500 North 3<sup>rd</sup> Street  
Phoenix, AZ 85004  
Attn: Director

The State of California:

Colorado River Board of California  
770 Fairmont Avenue, Suite 100  
Glendale, CA 91203-1035  
Attn: Executive Director

*DRAFT*

The State of Nevada:

Colorado River Commission of Nevada  
555 E. Washington Avenue, Suite 3100  
Las Vegas, NV 89101  
Attn: Director

7.1.2 Any party may, at any time, change its mailing address by notice to the other parties.

7.2 Notices and requests may be given by facsimile among AWBA, SNWA, CRCN and the Secretary in lieu of first class mail as provided in sub-article 7.1. Such facsimiles shall be deemed complete upon a receipt from sender's facsimile machine indicating that the transmission was satisfactorily completed and after phone communication with administrative offices of the recipient notifying the recipient that a facsimile has been sent.

AWBA Facsimile Number 602-417-2401

SNWA Facsimile Number 702-258-3951

CRCN Facsimile Number 702-486-2695

Secretary Facsimile Number 702-293-8042

7.2.1 Any party may, at any time, change its facsimile number by notice to the other parties.

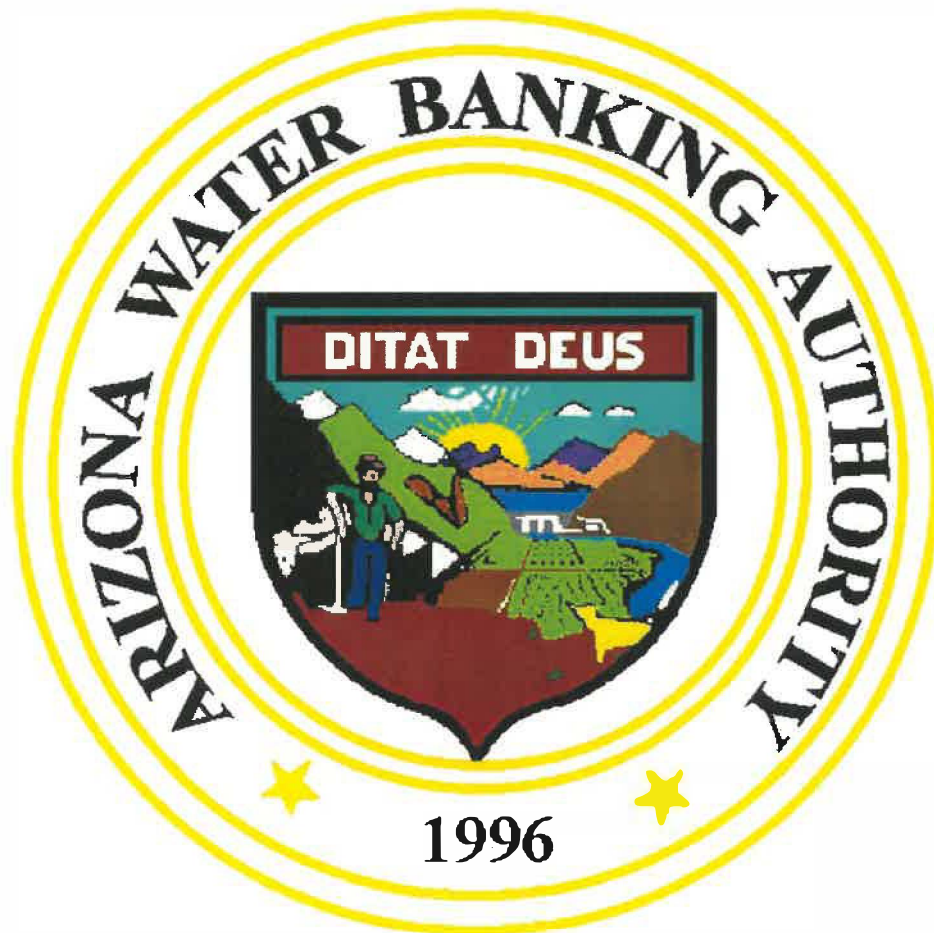
**In Witness of this Agreement, the Parties affix their official signatures below, acknowledging execution of this document on the \_\_\_\_ day of \_\_\_\_\_, 2001.**

DRAFT

ARIZONA WATER BANKING AUTHORITY

ANNUAL PLAN OF OPERATION

2002



Joseph C. Smith, Chairman

December 2001

# DRAFT

## INTRODUCTION

The Arizona Water Banking Authority (AWBA) was created to store Arizona's unused Colorado River water entitlement in western, central and southern Arizona to develop long-term storage credits to: (1) firm existing water supplies for municipal and industrial users during Colorado River shortages or Central Arizona Project (CAP) service interruptions; (2) help meet the water management objectives of the Arizona Groundwater Code; and (3) assist in the settlement of American Indian water rights claims. Changes in the AWBA's enabling legislation in 1999 authorized the AWBA to participate in other water banking activities, however, no new water banking activities are included in this annual Plan of Operation.

The AWBA's storage (or banking) of water is accomplished through the Underground Water Storage, Savings and Replenishment Act (UWS) enacted by the Arizona legislature in 1994 and administered by the Arizona Department of Water Resources (ADWR). Through this program, the AWBA stores renewable water that currently has no immediate, direct use in either underground storage (USF) or groundwater savings (GSF) facilities. A USF is a facility that allows water to physically be added to an aquifer. A GSF is a facility where the renewable water is used in place of groundwater, creating a groundwater savings. The UWS program mandates the accounting of the renewable water stored and the development of long-term storage credits. The long-term storage credits developed by the AWBA will then be utilized by the AWBA when future conditions warrant. The use of credits for the three objectives listed above may differ and is dependent on the source of funds utilized to develop them.

The AWBA is required by statute to approve an annual Plan of Operation (Plan) by January 1 of each year. Prior to approval of the final Plan, the AWBA is required to solicit public comment. This is achieved by presenting a draft of the Plan to the Groundwater Users Advisory Councils (GUAC) for the Phoenix, Pinal and Tucson Active Management Areas (AMA) and to the county board of supervisors for counties outside of the AMA's if water storage is proposed there within the Plan. Presentation of the draft Plan must be made at publicly noticed open meetings at which members of the public are permitted to provide comment. The AWBA also accepts public comment in writing up to the time the final draft Plan is presented for approval.

This Plan does not include an interstate water banking component. When it is anticipated that the final approved Plan may include an interstate water banking component, pursuant to the provisions of the Agreement for Interstate Water Banking, the initial draft Plan will not. Not including the interstate water banking component in the initial draft Plan allows the AWBA to insure that Arizona's water banking interests have been met prior to inclusion of an interstate banking component. On or before November 1, the AWBA will advise the Nevada entities of any opportunity for interstate water banking. They will, in turn, advise the AWBA of their desire to accept or decline the amount offered. Consequently, absence of an interstate component in a draft Plan does not indicate that interstate water banking will not occur.

The Plan is intended to govern the operations of the AWBA over the course of the entire calendar year. During the course of the year, changing circumstances may present limitations or provide new opportunities not contemplated in the adopted Plan,



# DRAFT

which could affect the overall delivery projections. In such circumstances, the AWBA may choose to modify its adopted Plan. If such modifications are required, the proposed modifications will be discussed and, if acceptable, approved at a public meeting of the AWBA and an Amended Plan will be prepared.

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

## 2001 PLAN OF OPERATION

In 2001, the AWBA's fifth full year of operation, the AWBA recharged more than 295,000 acre feet of Colorado River water and Arizona's total use of Colorado River water was forecast to be 2.66 million acre feet. Consequently, the AWBA continues to play a role in bringing Arizona closer to full utilization of their normal year entitlement of 2.8 million acre feet (see Figure 1).

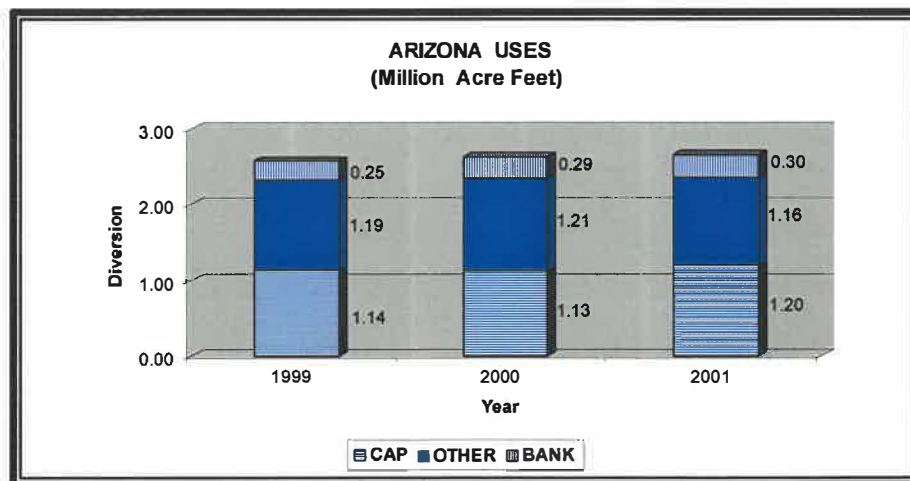
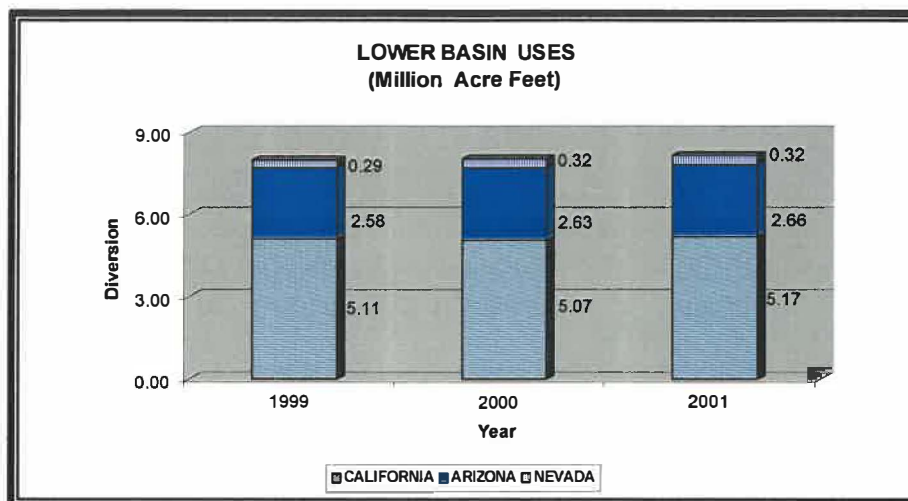


Figure 1

Because the Secretary of the Interior declared that the Colorado River was in limited surplus in 2001, Arizona's use did not impact the other Lower Basin states' uses. Total use of Colorado River water in the Lower Basin is forecast to be approximately 8.15 million acre feet in 2001 (see Figure 2) based on Bureau of Reclamation data dated November 29, 2001.

# DRAFT



**Figure 2**

The AWBA recharged water at both USFs and GSFs in 2001. Table 1 lists the AWBA's recharge partners for 2001, the amount of water that can be stored under each AWBA water storage permit, and the amount of water delivered to the facility by the AWBA in 2001. Table 1 values are based on actual deliveries through November with December's deliveries estimated. The amount of water delivered to a facility is always greater than the amount of long-term storage credits earned by the AWBA because credits are computed by subtracting approximately 3-5% for losses and 5% for a "cut to the aquifer" from the total annual deliveries. Final figures for credits earned generally become available in the middle of the following year after review of the annual reports filed with the ADWR and are reported in the AWBA's Annual Report.

**Table 1**

AMA	Facility	Type	Permit Capacity	Amount Delivered
<b>Phoenix</b>	GRUSP	USF	200,000 AF	62,702 AF
	Agua Fria	USF	100,000 AF	4,464 AF
	Chandler Hts Citrus ID	GSF	3,000 AF	545 AF
	Queen Creek ID	GSF	28,000 AF	8,829 AF
	New Magma IDD	GSF	54,000 AF	44,162 AF
	SRP	GSF	200,000 AF	14,935 AF
<b>Pinal</b>	MSIDD	GSF	120,000 AF	48,145 AF
	CAIDD	GSF	110,000 AF	12,141 AF
	Hohokam ID	GSF	55,000 AF	54,936 AF
<b>Tucson</b>	Avra Valley (CAP)	USF	11,000 AF	6,141 AF
	Lower Santa Cruz (CAP)	USF	30,000 AF	24,299 AF
	Pima Mine Road (CAP)	USF	30,000 AF	12,973 AF
	Kai-Red Rock	GSF	11,231 AF	863 AF
<b>Total</b>			<b>952,231 AF</b>	<b>295,135 AF</b>

# DRAFT

The 2001 Plan scheduled more than 319,000 acre feet of water to be delivered for recharge around the state. The amount of water actually delivered amounted to slightly more than 295,000 acre feet. Reduced availability at two facilities accounted for the majority of the difference between projected and actual deliveries. There was a curtailment of storage at the Granite Reef Underground Storage Project pursuant to the provisions of Salt River Project's agreement with the Salt River Pima Maricopa Indian Community. There was also a reduction in the storage at the Agua Fria Recharge Facility as the available storage was utilized by the Central Arizona Groundwater Replenishment District to meet their replenishment obligations. The historical trend of a greater amount of storage at GSF's continued in 2001. Figure 3 shows the acre foot break down between GSFs and USFs for 2001 and a comparison between 2001 and previous years.

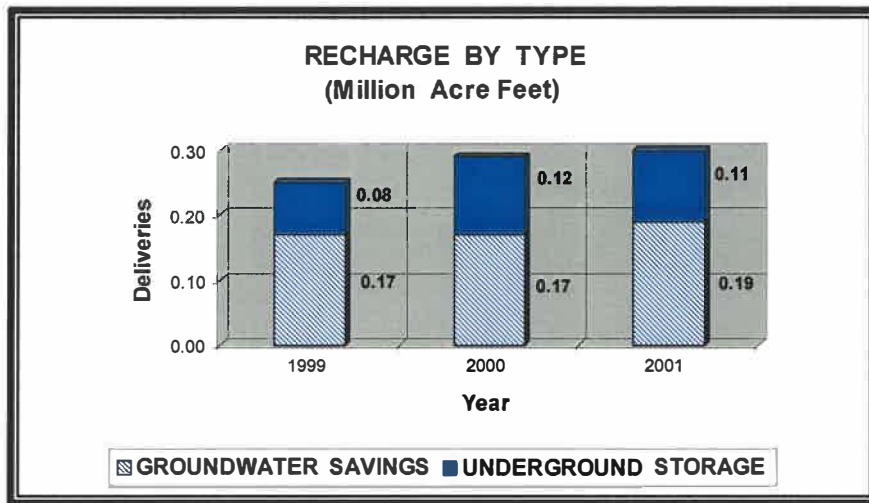


Figure 3

## 2002 PLAN OF OPERATION

When developing the 2002 Plan, the AWBA evaluated four critical factors: (1) the amount of unused water available to the AWBA for delivery, (2) the CAP capacity available to the AWBA for the delivery of unused water, (3) the funds available and the costs required to deliver the unused water, and (4) the capacity available for use by the AWBA at the various recharge facilities.

The Bureau of Reclamation published the Annual Operating Plan (AOP) for water year 2002 on October 15, 2001. The 2002 AOP prescribes that a full domestic surplus condition will govern releases from Lake Mead for the Lower Basin states in 2002. This surplus condition is described in the Interim Surplus Guidelines that became effective on February 26, 2001 and, in effect, limits Arizona to 2.8 million acre feet. Based on the Secretarial declaration and proposed uses, the overall Lower Basin use is projected to be 8.15 million acre feet (Figure 4) and Arizona's use is forecast to be 2.75 million acre feet (Figure 5). Consequently, water availability will not be a limiting factor for the AWBA in 2002.

# DRAFT

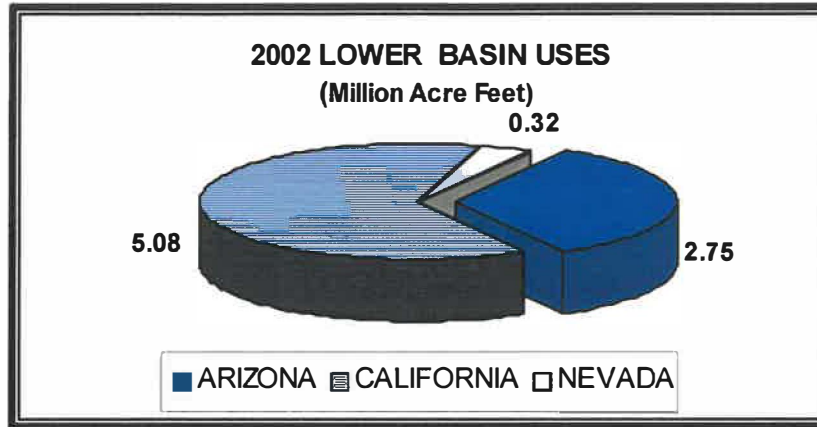


Figure 4

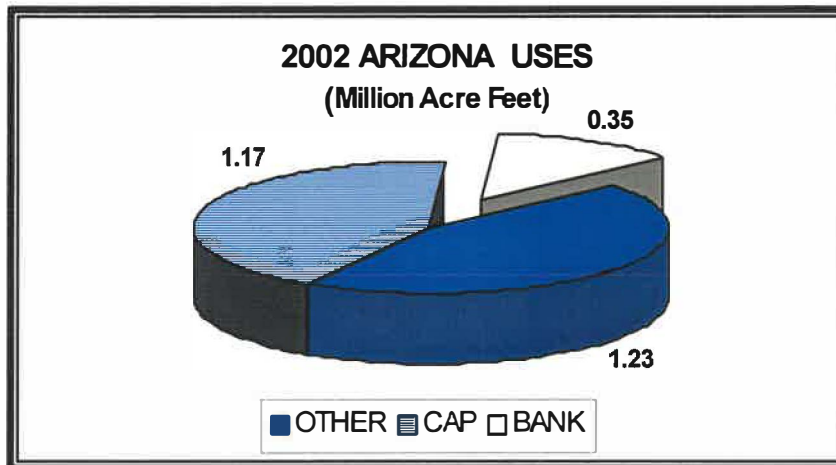


Figure 5

The CAP 2002 Operating Plan would accommodate the delivery of approximately 1.65 million acre feet of water. CAP's plan delivers approximately 1.17 million acre feet to its subcontractors, leaving 480,000 acre feet of capacity available for the AWBA. Based on this available capacity, the CAP's operations will not be a limiting factor for the AWBA in 2002.

The funding available to the AWBA from its three sources (county *ad valorem* property tax revenues, groundwater pumping fees, and general funds) to pay for the delivery of water in 2002 will be approximately \$49 million including the carryover from previous years. Given the costs associated with the delivery of water and the continued policy of GSF operators paying \$21 of the water delivery costs to their facilities, the \$49 million is adequate to fund the Plan and is not a limiting factor in 2002. For more information about the cost of the Plan, please refer to the pricing section.

To assist in developing the 2002 Plan, facility operators submitted an annual delivery schedule to the CAP that included their projected storage with the AWBA. The CAP schedules the AWBA's deliveries to the USFs it operates. The CAP staff utilized the facility operator's schedules to compile an annual schedule for the CAP, including

# DRAFT

municipal and industrial (M&I) water, water for Indian tribes, incentive recharge water, agricultural pool water, and AWBA water.

Concurrently, the AWBA staff met with the facility operators to discuss their delivery schedules and development of new facility agreements as appropriate and confirm their continued interest in participating with the AWBA. These discussions confirmed the availability of substantial permitted recharge capacity but also that not all of the existing capacity is available to the AWBA. Some of the GSF availability was limited by delivery cost and operational constraints or previous commitments to other partners limited the availability of both the GSFs and the USFs to the AWBA. Accordingly, the only constraint on AWBA storage in 2002 is availability of recharge facilities.

The CAP water that the AWBA purchases from CAWCD can be viewed as having two components, cost and availability. The pricing aspect of the water deliveries is discussed further in the pricing section of this document. With regard to availability of water, the AWBA purchases water from the category that is termed excess water. Excess water is generally recognized to be all water available for delivery through the CAP, regardless of Secretarial declaration of condition, that exceeds the quantities scheduled under long-term contracts and subcontracts. The availability of excess water is determined on an annual basis. In 2002, and until 2004, there are no pools associated with excess water and the AWBA has available to it any water not requested by another entity within Arizona. In light of the Repayment Settlement Stipulation with the federal government, the CAWCD has proposed a new policy for excess water that will become effective in 2004 and continue until 2030. This policy establishes eligibility criteria, priority and price for each pool or category. The AWBA category is established exclusively for the AWBA's intrastate storage purposes. Size and price of the pool will be established by the CAWCD Board; a priority was not established for this pool. This policy also establishes an Interstate Storage category for the AWBA's interstate storage purposes. The price for water delivered for interstate banking will be established according to statute. This pool strategy has been discussed in numerous CAWCD Board meetings but has not yet been officially adopted as Board policy.

The AWBA anticipates recharging more than 350,000 acre feet of Colorado River water in 2002. The 2002 Plan was developed utilizing permitted facilities located in Maricopa, Pinal and Pima Counties and attempts to optimize, on a monthly basis, the delivery of Colorado River water to meet the AWBA's objectives. The Plan is flexible and if additional recharge capacity can be identified and funding remains available it can be modified in the future to include additional facilities.

Table 2 shows the AWBA's 2002 delivery schedule. Line One of this table provides estimates of the CAP's monthly deliveries to its M&I, agricultural, incentive recharge, and Indian customers. These deliveries have a scheduling priority over the AWBA's deliveries. These estimates do not include deliveries to New Waddell Dam.

Line Two shows the operational capacity of the CAP available after it makes its priority deliveries and its deliveries to New Waddell Dam. Although the CAP is capable of delivering approximately 180,000 acre feet per month, the available capacity does not always total that because of unique situations. These can include the filling of Lake Pleasant in the winter months, deliveries to the western portion of the aqueduct, New

# DRAFT

**Table 2**  
**ARIZONA WATER BANKING AUTHORITY**  
**Water Delivery Schedule**  
**Calendar Year 2002**  
**(ACRE-FEET)**

2001  
Deliveries  
(AF)

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total			
1	Estimated CAP Deliveries + Losses : ( M&I, Indian, Ag Pools 1 , 2 & 3, Incentive Recharge)	45,000	49,000	110,000	118,000	135,000	165,000	185,000	145,000	70,000	69,000	42,000	40,000	1,173,000			
2	Available Excess CAP Capacity for AWBA :	17,000	22,000	26,000	48,000	47,000	54,000	40,000	58,000	50,000	53,000	36,000	29,000	480,000			
AWBA -- Recharge Sites :																	
		Permitted Capacity (AF)	Requested Capacity (AF)														
PHOENIX A M A :																	
3	USF GRUSP	200,000	50,600	4,800	4,800	4,800	4,800	4,800	3,800	3,800	3,800	3,800	3,800	3,800	50,600	62,702	
4	HIEROGLYPHIC MTN.	35,000 <sup>1</sup>	6,000	0	0	0	0	0	0	0	0	0	3,000	3,000	6,000	0	
5	AGUA FRIA	100,000	62,329	2,033	2,034	2,033	5,600	6,100	6,100	6,450	7,100	7,100	5,100	5,579	7,100	62,329	4,464
6	GSF CHCID	3,000	1,117	50	100	50	100	100	151	125	125	125	191	0	0	1,117	545
7	NEW MAGMA	54,000	47,200	2,000	2,000	3,200	2,500	3,000	3,500	3,700	9,700	9,600	3,500	2,500	2,000	47,200	44,162
8	QUEEN CREEK	28,000	13,500	0	0	0	0	0	0	5,711	3,182	1,682	1,202	1,723	13,500	8,829	
9	SRP	200,000	11,200	0	0	1,600	1,600	1,600	1,600	1,600	1,600	1,600	0	0	0	11,200	14,935
10	TONOPAH ID	15,000	3,000	0	0	0	0	0	0	0	0	0	2,000	1,000	3,000	0	
P I N A L A M A :																	
11	GSF CAIDD	110,000	15,000	0	0	0	0	0	0	3,000	7,000	2,500	1,000	1,500	15,000	12,141	
12	HOHOKAM	55,000	54,500	1,500	2,500	6,400	6,500	10,000	8,000	4,000	7,600	3,500	2,000	1,000	1,500	54,500	54,935
13	MSIDD	120,000	27,830	510	510	1,350	620	4,870	10,700	6,010	210	200	0	710	2,140	27,830	48,145
T U C S O N A M A :																	
14	USF AVRA VALLEY	11,000	6,500	570	570	570	570	570	570	570	570	230	570	570	6,500	6,141	
15	PIMA MINE ROAD	30,000	25,431	2,100	2,600	2,600	2,100	2,600	2,600	2,100	2,600	2,000	400	1,131	2,600	25,431	12,973
16	LOWER SANTA CRUZ	30,000	25,468	1,600	2,600	2,600	2,600	2,600	2,600	1,661	1,742	1,293	972	2,600	2,600	25,468	24,299
17	KAI - RED ROCK	11,231	1,000	0	0	0	0	0	0	500	500	0	0	0	1,000	863	
18	T O T A L (USF + GSF) :		350,675	15,163	17,714	25,203	26,990	36,240	39,621	30,016	45,453	40,170	20,375	25,092	28,638	350,675	295,135
19	Remaining CAP Capacity :			1,837	4,286	797	21,010	10,760	14,379	9,984	12,547	9,830	32,625	10,908	362	129,325	

<sup>1</sup>The Hieroglyphic Mountain Recharge Project has not yet been permitted. The application was for 35,000 acre feet per annum and it is anticipated that the AWBA will apply for a water storage permit in the same amount.

# DRAFT

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

Lines Three through Seventeen represent the AWBA's 2002 Plan of Operation. This section identifies the AWBA's partners for 2002 and the amount of water scheduled to be recharged. The second column in this section identifies the AWBA's water storage permit capacities for each facility based on the facility permits and the amount of that capacity that is available to the AWBA in 2002. The capacity available does not always equal the storage permit capacity because the storage facility operators may have agreements with other storage partners.

Line Eighteen lists the total amount of AWBA storage scheduled for the year 2002. and Figure 6 illustrates the distribution of that amount between GSFs and USFs. For the first time since the AWBA's inception, storage at USFs and GSFs will be approximately equal.

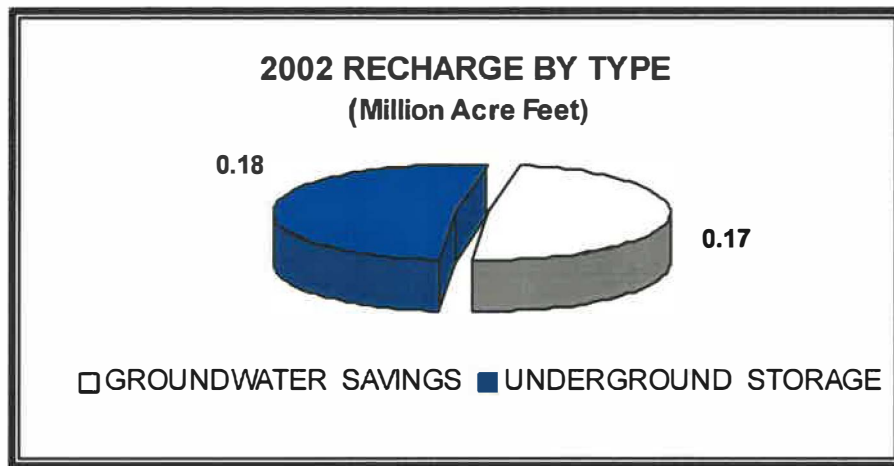


Figure 6

Line Nineteen lists the CAP capacity remaining after the AWBA's deliveries are scheduled. The CAP has shown in the past that there is some operational flexibility to help meet deliveries in any given month. The AWBA staff will work closely with the CAP staff and our partners in an attempt to meet all scheduled deliveries.

No recovery is anticipated in 2002. The AWBA will continue to work with CAWCD to pursue recovery concepts in 2002 and beyond.

## NEW FACILITIES

In 2002, the Plan anticipates recharging water at only one new facility, the Hieroglyphic Mountains Recharge Project (HMRP). CAWCD is developing the HMRP as a Maricopa County State Demonstration Project. The HMRP is located near 163<sup>rd</sup> Avenue and Dixileta Road within the Phoenix Active Management Area. As proposed, it will include three infiltration basins covering 50 acres with a storage capacity of 35,000 acre feet

# DRAFT

per annum. The recharge project is uniquely located adjacent to the CAP canal and upstream of the Waddell Canal. The HMRP has not yet obtained a facility permit from the ADWR, however, the public notice of the application has been completed. CAWCD projects facility construction to begin in February 2002 with recharge activity commencing in October 2002.

## INTERSTATE WATER BANKING

On July 3, 2001, the final Agreement for Interstate Water Banking (AIWB) was signed by Arizona and Nevada at a formal signing ceremony in Las Vegas. While this agreement was fully executed, the AWBA is not required to store water for Nevada until two additional agreements are executed. The other two agreements necessary to initiate interstate water banking are the Storage and Interstate Release Agreement (SIRA) and the Agreement for the Development of Intentionally Created Unused Apportionment. These agreements are being developed on the basis of concepts agreed upon in the AIWB, with the SIRA being the current agreement of focus. The negotiating team continues to work on the SIRA in conjunction with Nevada and representatives of the Bureau of Reclamation. It is projected that the remaining agreements will be executed in the spring of 2002. Consequently, the earliest that initiation of interstate storage would likely be addressed by the AWBA would be the June 2002 meeting. Amendment of this Plan would be required prior to commencement of any interstate water storage.

## PRICING

On June 21, 2001, the CAWCD board adopted final water delivery rates for 2002. The rate for AWBA and other M&I Incentive recharge will be \$55 per acre foot. The delivery rate is the pumping energy rate 2 component (\$49 per acre foot) plus 10 percent of the fixed OM&R charge (\$3.30 per acre foot) plus a component to recover lost revenues from federal deliveries (\$2.24 per acre foot). The components of the rate are the same as those in the 2000 and 2001 rates. For 2002, the pumping energy rate 2 was calculated using the average of the above threshold energy rates for the previous three years.

The AWBA's policy of recovering \$21 from its groundwater savings facility partners will continue for 2002. Table 3 reflects the water delivery rate the CAP will charge the AWBA, the rate the GSF operators will pay for use of the AWBA's water and the various rates the AWBA will be charged to utilize the different USFs.



# DRAFT

Table 3

2002 Water and Facility Rates - Intrastate	
CAP's delivery rate to AWBA	\$55 per acre foot
Groundwater Savings Facility operator portion of delivery rate	\$21 per acre foot <sup>1</sup>
Underground Storage Facility rate paid by AWBA	
GRUSP (SRP)	\$17.52 per acre foot
Avra Valley (CAP)	\$23.54 per acre foot
Hieroglyphic Mtns. (CAP)	\$7.90 per acre foot
Pima Mine Road (CAP)	\$5.97 per acre foot
Lower Santa Cruz (CAP/Pima County)	\$12.44 per acre foot
Agua Fria Recharge Project (CAP)	\$3.68 per acre foot

<sup>1</sup> This rate is paid directly to CAP by the GSF operators and is not available as revenue to the AWBA. The AWBA's rate for delivery of in lieu water is thus reduced to \$34/af.

The individual USF agreements determine the cost components paid by the AWBA. For GRUSP, the cost is comprised of an annual administration component, a component for use of the SRP interconnection facility, a transportation component and a general facility component. The other five USFs utilized in the Plan are operated by the CAP and were constructed using state demonstration project funds. Therefore, the CAP does not charge the AWBA a capital cost component for the facilities. Also, there is no administration cost component included in the facility cost because the AWBA pays the CAP administrative costs on an annual basis. The Avra Valley facility has an operation and maintenance (O&M) component, a land lease charge component and a wheeling component for use of the BKW water delivery system. The Lower Santa Cruz has an O&M component and a wheeling component for use of the same system. The Pima Mine Road and Agua Fria facilities have O&M components. The Hieroglyphic Mountains facility charge is only an estimate as there is currently no agreement for storage at the facility. The CAP facility O&M component typically includes facility maintenance and repair, monitoring, water quality sampling and data management and reporting.

The estimated total cost of the AWBA's 2002 Plan of Operation is approximately \$17 million which includes the USF use fees and the CAP delivery rate minus cost recovery from the GSF operator by the CAWCD.

## ACCOUNTING

The AWBA's enabling legislation required the development of an accounting system that allows the tracking of all long-term storage credits accrued by the AWBA and

# DRAFT

the funding sources from which they were developed. The ADWR has established accounts that track both credits and funds.

Table 4 provides estimates of the funds available including funds carried over from previous years and an estimate of funds to be collected during the year, the funds to be expended, and the credits that will accrue to those accounts based on the 2002 Plan.

**Table 4**

<b>2002 PLAN OF OPERATION</b>				
	<b>FUNDING<sup>1</sup></b>		<b>CREDITS<sup>2</sup></b>	
	<b>AVAILABLE</b>	<b>EXPENDED</b>	<b>AMOUNT</b>	<b>LOCATION</b>
<b>Withdrawal Fee</b>				
Phoenix AMA	\$12,333,117	\$0	0	Phoenix AMA
Tucson AMA	\$3,481,180	\$0	0	Tucson AMA
Pinal AMA	\$1,548,649	\$1,548,632	41,000	Pinal AMA
<b>Four Cent Tax</b>				
Maricopa County	\$23,553,694	\$10,241,556	175,000 AF	Phoenix AMA
Pima County	\$6,212,907	\$3,293,189	45,000 AF	Tucson AMA
Pinal County	\$280,000	\$279,990	7,000 AF	Pinal AMA
<b>Other</b>				
General Fund	\$2,000,000	\$2,000,008	46,000 AF	
		\$0	0 AF	Phoenix AMA
		\$519,410	7,000 AF	Tucson AMA
		\$1,480,598	39,000 AF	Pinal AMA
California	(not applicable)			
Nevada	(not applicable)			
<b>TOTAL</b>	<b>\$49,409,547</b>	<b>\$17,363,376</b>	<b>314,000 AF</b>	

<sup>1</sup> Does not include groundwater savings facility partners' payment. The AWBA's partners make payments directly to the CAWCD.

<sup>2</sup> Estimate based on 89.78% of the deliveries.

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

# DRAFT

**Table 5**

<b>CUMULATIVE TOTALS 1997-2001</b>			
	<b>EXPENDED</b>	<b>AMOUNT</b>	<b>CREDITS<sup>1</sup> LOCATION</b>
<b>Withdrawal Fee</b>			
Phoenix AMA	\$0	0	Phoenix AMA
Tucson AMA	\$0	0	Tucson AMA
Pinal AMA	\$3,751,010	144,231	Pinal AMA
<b>Four Cent Tax</b>			
Maricopa County	\$23,964,843	608,692 AF	Phoenix AMA
Pima County	\$3,488,614	59,179 AF	Tucson AMA
Pinal County	\$1,390,893	64,002 AF	Pinal AMA
<b>Other</b>			
General Fund	\$10,695,000	375,773 AF	
	\$2,146,252	58,173 AF	Phoenix AMA
	\$5,361,381	265,209 AF	Pinal AMA
	\$3,187,367	52,391	Tucson AMA
California			
Nevada			
<b>TOTAL</b>	<b>\$43,290,360</b>	<b>1,251,877 AF</b>	

<sup>1</sup> Actual credits used for 1997, 1998, 1999 and 2000; credits estimated for 2001

## PUBLIC REVIEW AND COMMENT

The AWBA staff held public meetings in conjunction with the GUACs for the Phoenix, Pinal and Tucson AMAs as required by the AWBA's enabling legislation.

### Phoenix GUAC

There was discussion and questions regarding the Secretary's declaration for the Colorado River and the new Interim Surplus Guidelines. The GUAC expressed its concern regarding the possible decrease in, or loss of, the AWBA's \$2 million general fund appropriation in light of the current budget crisis. The GUAC stated they felt that the legislature needed to be informed of the importance of the AWBA's function and M&I firming and would be willing to help carry that message to the governor and the legislature. There was discussion regarding the costs associated with GSF versus USF storage and a question regarding the funding source for the Hieroglyphic Mountain

# DRAFT

Recharge Project. In general, the GUAC supported the Plan and had no requests for additions to, or modification of, it.

## Pinal GUAC

There were no specific comments regarding the Plan or requests for modification.

## Tucson GUAC

There was general discussion regarding the status of interstate negotiations with California, the manner in which GSFs operate and development of a recovery plan. With regard to this Plan, there was a question whether more water could somehow be recharged in the state or in the Tucson AMA in 2002 when the price for CAP water is lower than forecast for 2003 and 2004. The current limitations for storage were described. The GUAC expressed its support of the plan with the caveat that there were some concerns regarding interstate water banking. The GUAC expressed their support in a letter to the AWBA.

## General Public

Letters were received from staff at the Central Arizona Project and the president of the Southern Arizona Water Users Association.