

ARIZONA WATER BANKING AUTHORITY
Wednesday, April 1, 2009

	Name (Please print)	Affiliation	Phone No.
1	Mark Myers	Montgomery + Assoc	520-881-4912
2	Larry Dozier	CAP	o.f.l.
3	Robert Bayle	HHK	520-723-7751
4	Brian Henning	CAP	623-869-2567
5	Jodi Gould	CAP	623-869-2565
6	Gary Given	CAP	623-869-2158
7	V. C. DANUS	AMWUA	6022482422
8	Leah Kritzer	JLBC	602-926-5465
9	Ron Wolfe	BKW	520-682-2576
10	JOE SINGLETON	ADWR	520-836-4857
11	Ben Miller	Scottsdale	480-312-5009
12	Raren Nally	Hohokam	602-258-4016
13	Stu Peckham	ADWR	602-771-8624
14	Dee Fuest	CAP	603-869-2807
15	J Gibbon	SS+D	602-528-4098
16	Gregg Cappi	COC	480-782-3585
17	Jennifer Crandell	State of NV	702-486-2673
18	Leah Siegel	SRP	6022362277
19	Jeff Ehler	SRP	602 236-5504
20	Quin Beech	MS100	520-924-3344
21	DENNIS TULLER	CITY OF EL MIRAGE	623-976-4222
22	Tim Pierson	Ontario River	520-562-9790
23	DOUG KUPPEL	CITY OF PHOENIX	602-495-5653
24	Tim Gibson		

ARIZONA WATER BANKING AUTHORITY
Wednesday, April 1, 2009

	Name (Please print)	Affiliation	Phone No.
1	Michael Block	Metro Water	(520) 575-8100
2	Anne Prince	Anti-Bus. Council AZ	480-558-5301
3	Bob Sekora	State Parks	602-542-7157
4	Gary Gin	City of Phoenix	602-495-5654
5	Kathi Knox	Senate Esch	926 3171
6	Marge Ray	Leg. Council	926 4236
7	Tony De Marco	Senate Esch	926 3171
8	Steve Wene	MCWA	602-604-2189
9	Tom Maher	SNWA	702-862-3702
10	Robin Stinnett	Avendale	623-333-6449
11	Janie Thom	(AWER)	
12	John Bosendruk	ADWR	520 770 3817
13	Mitch Huns	USBR	623-773-6274
14	DAVE CROCKETT	FWID	520 887 4192
15	Ian Aviner	CO SWS	602-323-1700
16	Rebecca Davidson	SRP	602-236-6617
17	THOMAS RICHIE	CAWRD	623 204 4901
18	BARRY MALLA	CITY OF TUCSON	(520) 791-2689
19	Dennis Ruhl	Tucson Water	(520) 837-2111
20	Ken Seasholes	CAP	(520) 349-2114
21	Thilia McGaw	ADWR	602-771-8413
22			
23			
24			

Arizona Water Banking Authority
3550 N. Central Avenue, Phoenix, Arizona 85012
Telephone 602-771-8487
Fax 602-771-8685
Web Page: www.azwaterbank.gov

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 April 1, 2009 at 10:00 a.m. at the Arizona Department of Water Resources, 3550 North Central Avenue, Phoenix, Arizona 85012, Upper/Middle Verde conference room on the 2nd floor. The meeting is open to the general public. A copy of the agenda for the meeting is posted below.

Dated this 31st day of March, 2009

FINAL AGENDA

Arizona Water Banking Authority Commission Meeting

- I. Welcome/Opening Remarks
- II. Approval of Minutes
 - December 10, 2008
 - January 7, 2009
- III. Water Banking Staff Activities
 - Deliveries
 - On-going response to JLBC and legislative requests
 - Update on AWBA legislative amendment
 - Update on renewal of Agreements
 - Intergovernmental Agreement Among the ADWR/AWBA/CAWCD
 - GRIIDD GSF Water Storage Agreement
 - Meetings
- IV. Amended 2009 Plan of Operation
 - Discussion and potential amendment of 2009 Plan of Operation
- V. Interstate Water Banking
 - Overview
 - Discussion and potential approval of the Second Amended Agreement for Interstate Water Banking among the AWBA, the SNWA, and the CRCN
 - Discussion and potential action to designate Chairman Guenther as Authorized Representative of the AWBA for purpose of signing letter agreement between AWBA and SNWA modifying payment schedule
 - Overview of interstate accounting and firming obligation

VI. Agreements

- Discussion and potential approval of CAVSARP/SAVSARP Water Storage Agreement
- Discussion and potential approval of the Intergovernmental Agreement between the AWBA and the GRIC
- Discussion of amending Agreement to Firm Future Supplies

VII. Discussion of Water Banking Opportunities in Tucson AMA

- Groundwater Savings Facilities
- Use of 4 cent *ad valorem*

VIII. Call to the Public

Future Meeting Dates:

Wednesday, June 17, 2009

Wednesday, September 16, 2009

Wednesday, December 16, 2009

All visitors must use the south elevators; please stop at the 2nd floor to sign-in and receive a visitor's badge. Badges are to be displayed at all times. Visitors are also required to sign out and return their badges. Thank you for your assistance.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Virginia O'Connell at (602) 771-8491, TDD # (602) 771-8501. Requests should be made as early as possible to allow time to arrange the accommodation.

Lisa Atkins

Lisa Atkins serves as a member of the Authority as the representative designated by Susan Bitter Smith, president of the Central Arizona Water Conservation District (CAWCD). Originally appointed by Governor Hull in January 2003, to complete the term vacated by Bob Burns, Lisa Atkins was re-elected to the CAWCD Board of Directors on November 7, 2006, to represent Maricopa County until December 31, 2012.



Mrs. Atkins graduated from the University of Arizona with a Liberal Arts degree. Currently employed by Greater Phoenix Leadership as Vice President for Public Policy, Mrs. Atkins also serves as Co-Chair of the Arizona Military Affairs Commission and as a member of the Boards of Fighter Country Partnership, the West Valley Arts Council, the Challenger Space Center, Friends of the West Valley Recreation Corridor, Arizona Town Hall, Project Challenge, the Southwest Valley YMCA and the Arizona Trail Association. She has served on the Commission on the Arizona Environment, the 1999 Transportation Vision 21 Task Force, the 2000 Governor's Water Management Commission and the 2003 Military Facilities Task Force. Mrs. Atkins served as Chief of Staff to U. S. Congressman Bob Stump from 1979 – 2002.

Mrs. Atkins, a native Arizonan, resides in Litchfield Park with her husband, John. They have two grown children, Brandon and Caroline. In her spare time she enjoys photography, history, and travel.

Kim R. Mitchell

From: Kim R. Mitchell
Sent: Tuesday, February 03, 2009 12:16 PM
To: Herb R. Guenther; Gayle Burns; John Mawhinney; Maureen George; Tom Buschatzke; Senator Robert Burns ; Representative Kirk Adams
Cc: Susan Bitter Smith; Larry Dozier; Gregg Houtz
Subject: Legislative Transfer of Funds from AWBA

To Our Authority Members,

Early Saturday morning, Governor Brewer signed into law S.B. 1001 that addresses budget reductions and transfers for FY 2008-2009. There will be additional cuts (listed below) of \$12.6 million to the AZ Water Banking Fund for the remainder of FY 2009.

- Sec. 4 Transfer of \$9,196,600 million from AWBA to state General Fund
- Sec. 5 Expenditure reduction of \$387,300 from AWBA
- Sec. 14 \$3 million appropriated from AWBA to ADWR to offset a state General Fund reduction (Sec. 3 cuts \$5.79 million from ADWR base)

These new transfers bring total legislative transfers from the AWBA for FY 2009 to \$25 million [\$12.4 million transferred from the AZ Water Banking Fund in beginning of FY 2009].

AWBA staff is now working to calculate the amount of funds transferred from specific subaccounts; both the withdrawal fee and NV interstate subaccounts will be impacted. Following coordination with ADWR Finance and completion of our calculations, we'll provide information on forecasted ending balances for these subaccounts.

Below is the link to S.B. 1001

<http://www.azleg.gov/legtext/49leg/1s/bills/sb1001s.pdf>

Kim Mitchell - Manager
Arizona Water Banking Authority
3550 N. Central Avenue
Phoenix, AZ 85012

Office: (602) 771-8490
FAX: (602) 771-8487
email: krmitchell@azwater.gov
Website: www.azwaterbank.gov

**ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹**

December 10, 2008

Arizona Department of Water Resources



AUTHORITY MEMBERS
Herbert R. Guenther, Chairman
Maureen R. George, Vice-Chairman
Tom Buschatzke, Secretary
John Mawhinney
Gayle J. Burns

EX OFFICIO MEMBERS
The Honorable Timothy S. Bee
The Honorable Lucy Mason

Welcome/Opening Remarks

Chairman Herb Guenther welcomed the attendees. All members of the Authority were present except for *ex-officio* members, Senator Timothy S. Bee and Representative Lucy Mason.

Chairman Guenther announced that Governor Napolitano had reappointed John Mawhinney, Maureen George, and Tom Buschatzke to the Commission for another six-year term beginning January 2009. He also informed the Authority that David Modeer is the new General Manager for the Central Arizona Water Conservation District (CAWCD) and that the AWBA looked forward to working with him.

Approval of Minutes of September 17, 2008 Meeting

The Authority approved the minutes of the September 17, 2008 meeting.

Water Banking Staff Activities

Virginia O'Connell noted that there had been changes to the planned delivery schedule since the last meeting. At that meeting she had reported that 2008 deliveries might be somewhat less than projected and that the decrease would likely be reflected in the Phoenix Active Management Area (AMA). Since then, deliveries that had been scheduled for the Pinal and Tucson AMAs were redirected to the Phoenix AMA because of unanticipated physical and permitted water storage capacity constraints in those AMAs. Ms. O'Connell also reviewed the recovery schedule for developing Intentionally Created Unused Apportionment (ICUA) for the Metropolitan Water District of Southern California (Metropolitan), noting that the Central Arizona Water Conservation District (CAWCD) had provided written notice to the AWBA that it had increased its 2008 recovery schedule by 2,000 acre-feet for a total of 27,000 acre-feet.

Kim Mitchell provided an overview of recent meetings attended by staff. CAWCD had scheduled a public workshop in October to discuss various options for distributing excess CAP water since water orders for 2009 substantially exceeded available supplies. Ms. Mitchell gave a presentation at the workshop that described the AWBA's original purposes and its new statutory obligations, which include meeting the State's obligations under the Arizona Water Settlements Act and its contract with the State of Nevada. She had commented that adjustments in AWBA operations may be needed to facilitate the AWBA in meeting its changing

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

responsibilities. In November, the CAWCD Board of Directors adopted a policy for distributing incentive priced water in 2009. The policy included establishing two specific pools of water and the procedure for distributing the remaining water (hand-out provided). The first pool reserved 81,900 acre-feet for use at groundwater savings facilities (GSFs) participating in the agricultural (AG)-incentive program and the second pool reserved 45,000 acre-feet for assisting the State in meeting its Indian firming obligations. Ms. Mitchell noted that the AWBA meets the criteria for participating in both of these pools.

Ms. Mitchell commented that staff would also be attending the Colorado River Waters Users Association (CRWUA) conference in Las Vegas the following week. The Salt River Project (SRP) had been coordinating with the AWBA, Arizona Department of Water Resources (ADWR), Arizona Municipal Water Users Association (AMWUA), CAWCD, and the Agri-Business Council of Arizona on the exhibit for the conference. The theme is similar to past years and focuses on groundwater management, recharge, and reuse.

Gregg Houtz provided an update on Indian settlement negotiations. He noted that Senator Kyl would reintroduce the White Mountain Apache Tribe (WMAT) bill to Congress in January. Under the settlement, the AWBA would be responsible for firming 3,750 acre-feet of non-Indian agricultural (NIA) CAP water, which defines a portion of the AWBA's future firming obligations. The valley cities and ADWR are currently discussing how leasing would affect future allocations of CAP water. They would like to resolve any issues before Congress acts on the legislation. Negotiations on the Navajo Nation/ Hopi Tribe settlement remain ongoing.

Mr. Houtz also informed the Authority on the Court of Appeals decision on Southwest Sand and Gravel v. the State of Arizona, in favor of the State. Southwest Sand and Gravel (S&G) had sued for damage to its pit by trespass from the operation of CAWCD's state demonstration recharge project (Agua Fria constructed/managed facility). He noted that Southwest S&G had not filed an objection to the proposed recharge facility during the objection period of the application process. At the trial level, the court ruled with CAWCD stating that although landowners have title to lands in the floodplain, its use is reserved for the storage and transport of water. An amicus brief had been filed by ADWR supporting CAWCD. The brief clarified that the determination of "unreasonable harm" from recharge operations protects sand and gravel operations against the existing depth of the pit, not a future level. The Court of Appeals cited the amicus brief in its ruling. Mr. Houtz pointed out that this outcome is important to the AWBA because it has been storing water at this facility for several years.

Proposed AWBA Legislative Amendment

Ms. Mitchell briefed the Authority on the proposed amendment to AWBA statutes. She pointed out that CAWCD currently has the authority to create separate pools for agriculture (AG) and the AWBA pursuant to its stipulation and repayment contract with the federal government. The purpose of draft legislation is to allow the AWBA to participate in pools that CAWCD could potentially establish for the AWBA and therefore not be last-in-line. The draft legislation includes five different pools that

staff anticipated could be created by CAWCD in any given year: 1) a general pool for AWBA purposes, 2) Indian firming, 3) replenishment under the Settlements Act and establishment of the Replenishment Bank, 4) making water available for M&I purposes during shortages, and 5) for new supplies created using interstate monies for the purpose of meeting contractual obligations. In response to inquiries from the Authority regarding pool #5, Tim Henley clarified that the AWBA could not currently hold its own water right. If the AWBA entered into a contract with CAWCD to receive water supplies from land following on-river, absent CAWCD's creation of this specific pool, that water would become part of the excess CAP supply, which could leave the supplies unavailable to the AWBA because of its last-in-line status. Mr. Henley added that the AWBA could enter into an agreement with other entities, but because a wheeling agreement would be required, CAWCD is the most logical partner. Mr. Mawhinney asked if supplies were available from land following on-river, would those supplies be left on-river for Nevada or would the water be stored and recovered in the AMAs. Mr. Henley responded that both scenarios could potentially be utilized. In the early years the water would be stored, however in the future if there are years when there is an opportunity to exchange water, an amount of water requested by Nevada would be left on the river because the AWBA would not store and recover the water in the same year.

In general, Authority members were concerned that the legislation allowed CAWCD to make the determination of how the AWBA's water is prioritized and thus the obligations the AWBA would be meeting. Mr. Houtz commented that the AWBA could not prioritize CAWCD's water through legislation (establish pools), but added that the AWBA could prioritize its own water under pool #1 if it were created by CAWCD. Mr. Henley noted that the public policy debate on the distribution of CAP water still occurs at CAWCD. Steve Olson (AMWUA) commented that he appreciated the intent of the legislation and the AWBA's need to meet its obligations, but that he had concerns with expanding the AWBA's authority and asked for further clarification on the pools. Representatives from Scottsdale, Chandler, and Phoenix commented they would like the AWBA to be able to meet its responsibilities, but favored eliminating pool numbers 2, 3, 4 and possibly 5, thereby keeping the legislation broad and giving the AWBA the ability to prioritize its own water. Mr. Dozier commented that CAWCD is the operating arm of the AWBA and that development of the AWBA's Annual Plan of Operation (Plan) is a joint planning exercise. CAWCD could not develop pools on its own because it does not know how much funding and capacity would be available to the AWBA. Likewise, the AWBA would need to know what its water availability would be. It is an iterative process between two entities. The cities, also questioned how the Central Arizona Groundwater Replenishment District (CAGRDR) fit into the legislation. Mr. Henley responded that the CAGRDR shares the same priority as M&I water banked by the AWBA with regard to its replenishment reserve obligation, which is currently last-in-line. The new legislation does not change that, therefore the CAGRDR would still be able to participate in pools in which the AWBA stored water for M&I purposes. Chairman Guenther cautioned members on eliminating pool #5 because the AWBA would not want to lose any investment it had made in obtaining additional water supplies. Mr. Mawhinney questioned if the AWBA would foresee a time when following would be used for commitments other than interstate. If so, the language in

pool #5 would be limiting. Mr. Henley commented that a broader interpretation of #5 could potentially include Indian firming. Mr. Houtz pointed out that the AWBA does not currently have the authority to acquire water for other purposes. In addition, a modification to #5 would complicate the legislation because other statutes would also need to be modified. Mr. Dozier commented that in the future, the AWBA could bring in additional supplies through the ADDWATER process, which is currently being developed. There could however be higher power costs associated with that process. Mr. Buschatzke raised the possibility of an agreement with CAWCD having a provision that pre-disposes a pool with project power in order to keep costs down. Mr. Henley commented that #5 was still needed because it would allow the AWBA to participate in such a pool.

Michele Van Quathem (attorney for Ryley, Carlock & Applewhite) provided comments and concerns from various clients her firm represents, including 1) that the new legislation would allow everything that is prohibited under current statute with regard to interstate storage being last, 2) the quantity of any pools created for the AWBA should be limited, 3) by creating a pool for the AWBA it could be taking supplies from GSF operators who are dependent on annual supplies because the AWBA may choose to store at other facilities. Therefore, the AWBA should be required to make reasonable efforts to store water at those GSFs that would be affected. Chairman Guenther requested that the comments be provided to staff in writing. Paul Orme (attorney representing CAIDD & MSIDD) commented that the two irrigation districts were generally supportive of the legislation, but wanted additional clarification that it would not impact the AG Pool. The Authority responded that the fact sheet would be updated to provide the added clarification. Tim Pierson (attorney representing the Gila River Indian Community) noted that if pool numbers 2, 3, and 4 are dropped, pool #1 would need to be amended to include the chapter on Indian firming.

Ms. George made a motion to direct staff to proceed with the legislation eliminating the language for pool numbers 2, 3 and 4, and amending the language in pool 1 to include Indian firming. Mr. Mawhinney provided the second to that motion. The motion carried.

Mr. Houtz noted that an agent would be needed to lobby the legislation once introduced. Ms. George moved to register the AWBA as the lobbying agent designating Chairman Guenther as its lobbyist. Mr. Buschatzke provided the second to that motion. The motion carried.

Discussion and Approval of 2009 Annual Plan of Operation

Ms. Mitchell provided a brief overview of the 2009 Annual Plan of Operation (Plan). She noted the limiting factor in developing the Plan was water availability. However, because the AWBA met the criteria for participating in the two pools created by CAWCD, the AWBA will be able to store a total of 118,523 acre-feet of water. Storage is limited to GSFs and for meeting Indian firming obligations. Expenditures for Indian firming will be primarily from withdrawal fees since the Legislative transfer of \$12.4 million from the Indian firming fund last July left little remaining in that fund. No interstate banking is planned for 2009. Mr. Buschatzke directed staff to provide a

statement in the Plan that any remaining withdrawal fees will be expended before other funds if additional water supplies become available.

Mr. Buschatzke made a motion to approve the 2009 Plan with the added statement. Ms. George provided the second to that motion. The motion carried.

Discussion and Approval of CY 2009 Water Delivery Budget

Ms. Mitchell reviewed estimated revenues, recharge rates, and planned expenditures for the 2009 Water Delivery Budget. The total cost of the Plan is \$6.9 million. Of this amount, \$5 million will be paid from revenues held by the AWBA and \$1.9 million will be offset by CAWCD using the *ad valorem* tax. She noted that all withdrawal fees will be expended, except for \$87,000. In addition, because the Plan does not include interstate deliveries, approximately \$14 million of the \$100 million will remain in the interstate resource account. Mr. Mawhinney inquired if the \$14 million was at risk from legislative transfer. Staff commented that it was, but because of the issue of reduced excess CAP supplies, it may be necessary to utilize the funds to acquire other sources of water to meet the Nevada obligation, which is what the money was intended for. Mr. Henley noted that staff would be meeting with staff from CAWCD to discuss various opportunities, but pointed out that encumbering the funds still might not protect them from appropriation. Ms. George proposed identifying the interstate monies as earmarked for acquiring additional supplies as opposed to a carryover. Chairman Guenther commented that the AWBA could enter into an IGA with CAWCD and use the funds to ensure a request for proposals (RFP) for identifying any opportunities that may exist. The Authority directed staff to schedule a special meeting early next year.

Mr. Mawhinney made a motion to adopt the 2009 Water Delivery Budget with the suggested changes. Ms. Burns provided the second to that motion. The motion carried.

Agreements

Discussion and potential approval of the following agreements:

a. Intergovernmental Agreement (IGA) among ADWR, AWBA, and CAWCD

Ms. Mitchell noted that the IGA was up for renewal. It establishes the annual process by which services are provided by ADWR and CAWCD to the AWBA and the process for reimbursement of those services. The AWBA pays a cost of services for administrative, technical and legal support provided by ADWR and an annual fixed fee for technical support provided by CAWCD, which will increase from \$10,000 to \$21,000. The new fee was based on an itemized list of services. The IGA will have a 10-year term. Mr. Mawhinney made a motion to authorize Chairman Guenther to sign the IGA. Mr. Buschatzke provided the second to that motion. The motion carried.

b. *Renewal of the Gila River Indian Irrigation and Drainage District (GRIIDD) GSF Water Storage Agreement*

Ms. Mitchell stated that the purpose of Amendment #1 to the GRIIDD Water Storage Agreement is to extend the expiration date to coincide with the December 31, 2010 expiration date of the GSF permit issued by ADWR. There are no other changes to the agreement.

Mr. Mawhinney made a motion to authorize Chairman Guenther to sign Amendment No. 1 to the GRIIDD Water Storage Agreement. Ms. George provided the second to that motion. The motion carried.

c. *Amendment No. 1 to Exhibits A & B of the Agreement to Firm Future Supplies*

Mr. Henley noted that under the Agreement to Firm Future Supplies (Agreement to Firm), the AWBA agreed to set aside long-term storage credits (credits) that had been accrued from general fund monies in a subaccount for the Mohave County Water Authority (MCWA). When the agreement was first executed, it was intended that Exhibits A & B might be amended over time to include additional supplies to be firmed. The MCWA has since acquired a portion of the Cibola and Kingman entitlements and wanted to include the additional supplies in the Agreement to Firm. The exhibits have been amended to include the additional supplies; however discussions remain ongoing because MCWA would like to amend the agreement further to include provisions for the credit replacement fund identified in Resolution 2008-1 of the AWBA (Resolution). Steve Wene (attorney representing MCWA) acknowledged discussions with staff and commented that there was conceptual agreement on how the Resolution would apply, but that he and staff were working on resolving implementation issues. There was no action by the Authority.

d. *CAVSARP/SAVSARP Water storage Agreement*

Ms. O'Connell noted that the CAVSARP/SAVSARP Water Storage Agreement (Water Storage Agreement) was provided for discussion purposes only. It is still in draft format because facility rates have not been provided and would therefore not be considered an action item. She reviewed the draft pointing out that both facilities were included in the Water Storage Agreement because they are both part of the larger "Clearwater" facility. The Water Storage Agreement defines and refers to the Clearwater facility, except for those sections pertaining to the methods for calculating water storage volumes. Ms. O'Connell commented that the Water Storage Agreement should be an action item at the next quarterly meeting in March.

Groundwater Savings Facility Agreements/Recovery Discussion

Mr. Henley noted that the Authority had asked staff to provide clarification on the recovery provisions in the AWBA's groundwater savings facility (GSF) agreements. He stated that under the GSF agreements, the facility operators cannot object to a third party designee recovering from within the GSF boundaries, but that they are not required to recover the AWBA's credits. Mr. Mawhinney questioned what the costs would be if a third party paid for the recovery facilities and who would pay for those costs. Mr. Henley noted that it would become part of the cost of delivering CAP water. Mr. Mawhinney commented that it would be useful if existing wells were used for recovery so that costs are reduced. He inquired about the provision in the agreements that required a list of wells that could be used for recovery. Mr. Henley responded that because wells tend to go in and out of production, it did not seem necessary to have a list, since those wells were not expected to be needed until some time in the future.

On a separate topic concerning GSFs, Mr. Mawhinney commented on the inability to make progress on the M&I firming goals for the Tucson AMA. He pointed out that the current cost share paid by GSF operators does not benefit the Tucson AMA since groundwater pumping costs for the Tucson GSFs are much less than in other AMAs. He added that by having variable cost share rates between AMAs, it might promote GSF partnerships with the AWBA in Tucson, thereby providing additional storage capacity and more credits earned on a cost per acre-foot basis. The Authority directed staff to evaluate the use of variable GSF cost share rates between AMAs.

Interstate Water Banking

Ms. Mitchell reviewed the fourth quarter interstate accounting report for 2008, noting that approximately 6,000 acre-feet of credits will have been accrued by the end of the year. Cumulative estimated credits total 533,536 acre-feet, which accounts for 43 percent of the firming goal. She also stated that interest that would have accrued on the \$100 million resource account through October of 2008 is approximately \$15 million.

Ms. Mitchell also noted that she and Mr. Henley would be meeting with staff from the Southern Nevada Water Authority (SNWA) and CAWCD at the CRWUA conference to continue discussions on recovery coordination and to discuss expenditure of the \$23 million installment to be paid by SNWA in January. Issues concerning California's drought problems would also be discussed. Chairman Guenther noted that the Authority might have to schedule a separate telephone conference with Nevada.

Call to the Public

Questions and comments made by the public are included in the above discussion.

The meeting concluded at 12:35 p.m.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹

January 7, 2009

Arizona Department of Water Resources



AUTHORITY MEMBERS
Herbert R. Guenther, Chairman
Maureen R. George, Vice-Chairman
Tom Buschatzke, Secretary
John Mawhinney
Gayle J. Burns

EX OFFICIO MEMBERS
The Honorable Timothy S. Bee
The Honorable Lucy Mason

Welcome/Opening Remarks

Chairman Herb Guenther welcomed the attendees. All members of the Authority were present except for *ex-officio* members, Senator Timothy S. Bee and Representative Lucy Mason. Maureen George attended via teleconference.

Deliberation and Potential Action on Whether to Toll the Performance Dates in the Amended Agreement for Interstate Water Banking while Further Discussion on the Agreement Take Place

Kim Mitchell noted that the Southern Nevada Water Authority (SNWA) had resent its request letter because the hardcopy of the original letter, dated December 18, 2008, had been inadvertently mailed to the AWBA's former address. The new letter, dated January 5, 2009 had a technical correction, but did not include substantive changes.

Ms. Mitchell commented that the SNWA had requested an opportunity to discuss potential changes to the Amended Agreement for Interstate Water Banking (Agreement) to address conditions that have changed since the Agreement was executed and to create flexibility in its operation. AWBA staff acknowledged the merits of SNWA's request and recommended tolling the performance dates of the Agreement for 60 business days, while further discussions with the SNWA and the Colorado River Commission of Nevada (CRCN) take place. Staff also provided a possible draft response letter that included potential changes to the Agreement as an attachment. Ms. Mitchell briefed the Authority on the letter and suggested changes, which included adding recovery definitions, revising the recovery schedule, and adding the credit exchange method for creating Intentionally Created Unused Apportionment (ICUA), currently recognized in the Storage and Interstate Release Agreement (SIRA). Chairman Guenther provided additional clarification on the suggested changes and reminded members that action would not be taken on the suggested changes, but rather on the proposal to toll the performance dates of the Agreement, i.e. the January 10, 2009 date for delivery of the first payment from SNWA. Mr. Mawhinney made a motion to toll the performance dates of the Agreement for 90 days, while formal changes to the Agreement are considered. Gayle Burns provided the second to that motion. The motion carried. The vote was unanimous.

With regard to potential changes to the Agreement, Mr. Mawhinney inquired if Section 2 also required changes to allow, as an example, land fallowing that resulted in the direct delivery of that water to Nevada when it was requested. Tim Henley

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

clarified that the AWBA did not have that authority under the SIRA because intentionally created unused apportionment (ICUA) could not be created in such a manner. ICUA requires credit recovery or credit exchange. If the Nevada agreement is amended to allow credit exchange it would have the same effect. Mr. Henley added that by changing the definition of recovery in the Agreement to include the credit exchange method for creating ICUA, water could be left on the river for Nevada, while an entity who had scheduled CAP water for storage would receive the long-term storage credits in its place. In addition, current statute does not allow the AWBA to directly enter into an agreement for the purchase of land or water rights. However, the AWBA could enter into an agreement with a third party, such as the Central Arizona Water Conservation District (CAWCD), who does have the authority to acquire additional supplies. Tom Buschatzke questioned if the lower case use of the word “recovery” in Section 3.1.1. precluded the use of the credit exchange method. Mr. Henley pointed out that the proposed changes were still in draft format to be used primarily to facilitate discussion, but that the intent of the section was to include the credit exchange method. He noted that a formal draft will be provided after the discussions take place.

Call to the Public

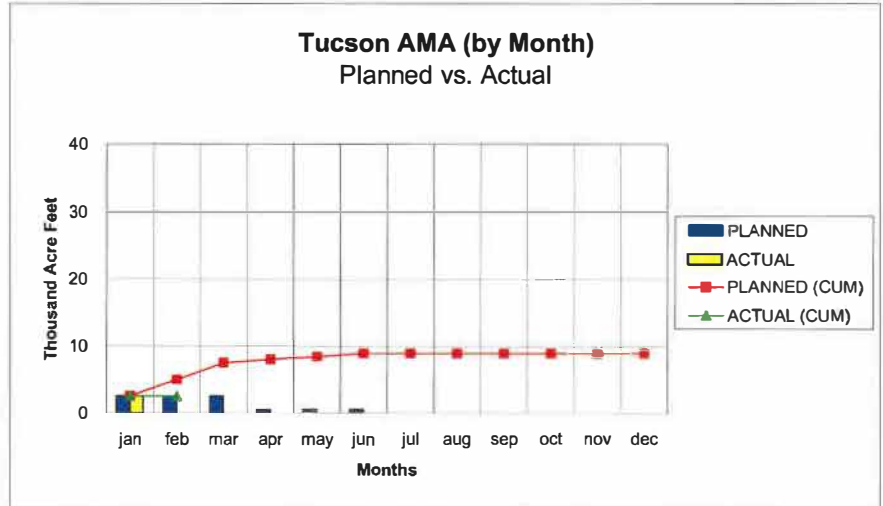
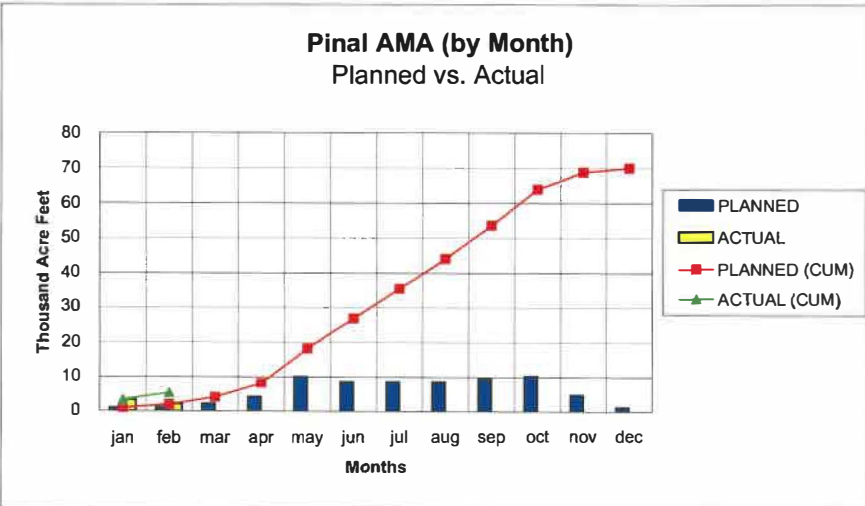
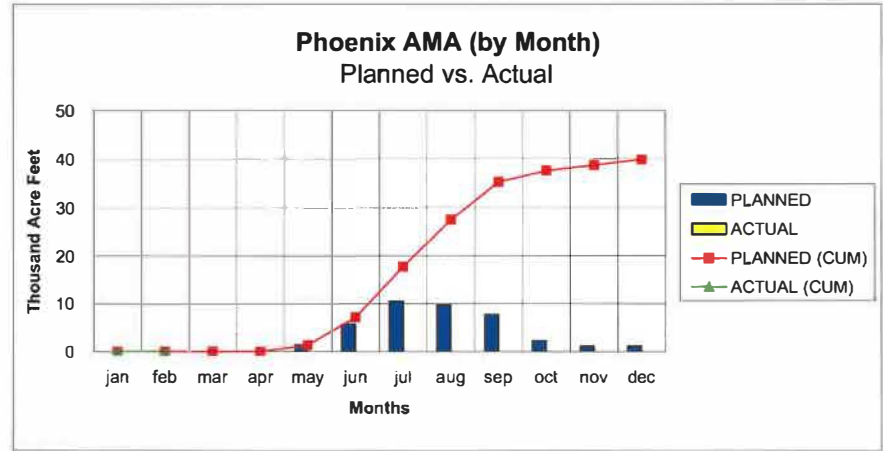
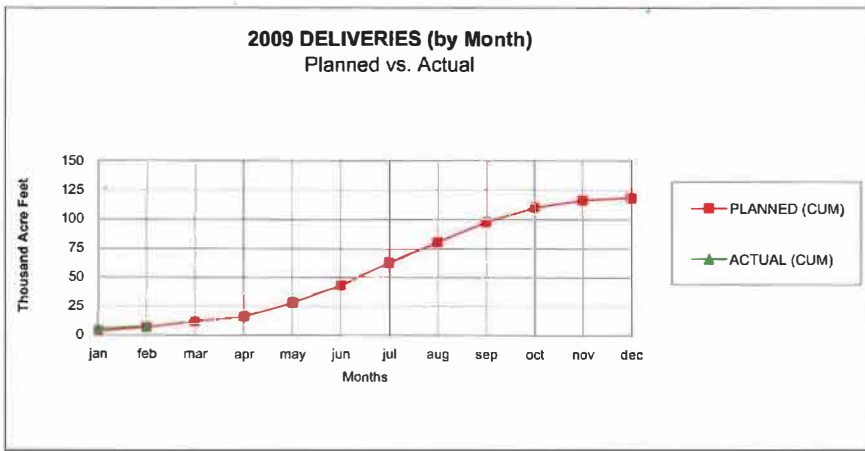
Mr. Mawhinney inquired if staff had explored other options for meeting the AWBA’s contractual obligation to Nevada. Mr. Henley commented that staff had a meeting scheduled for Monday with CAWCD to discuss possible opportunities.

There were no additional comments.

The meeting adjourned at 1:40 p.m.

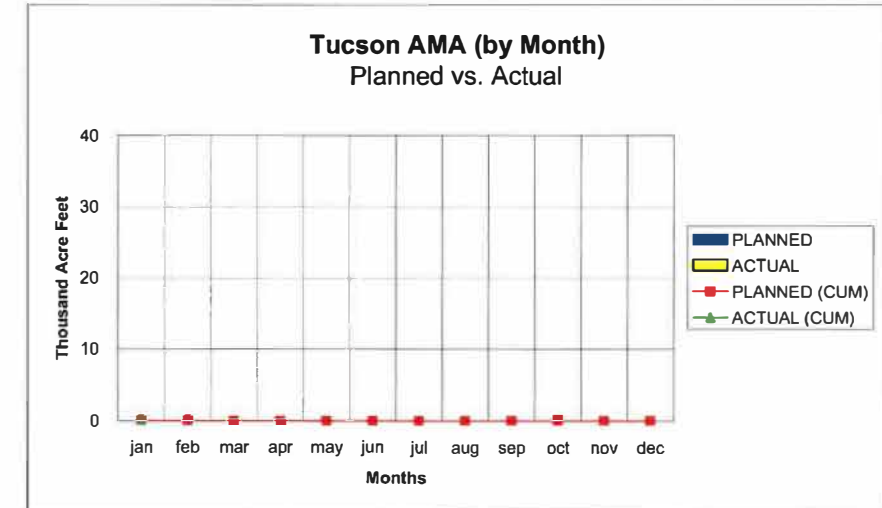
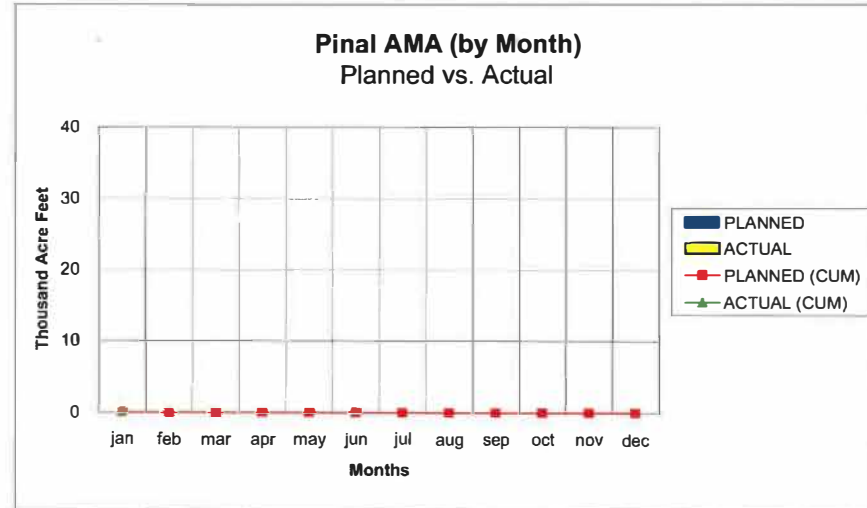
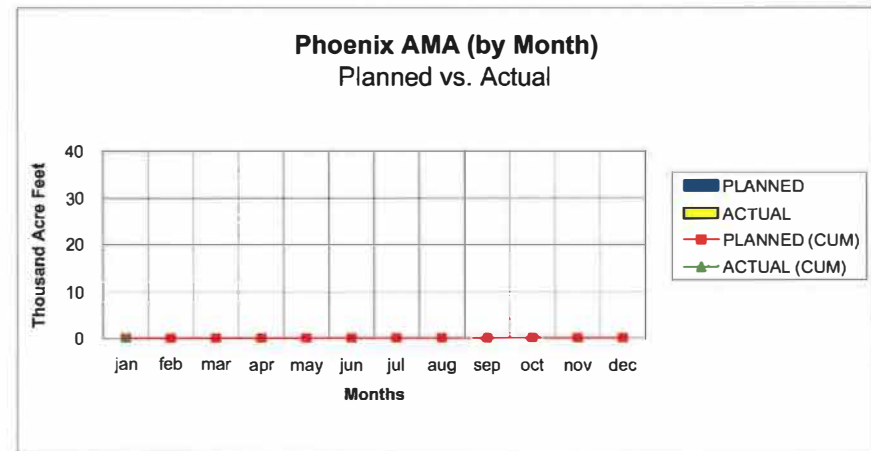
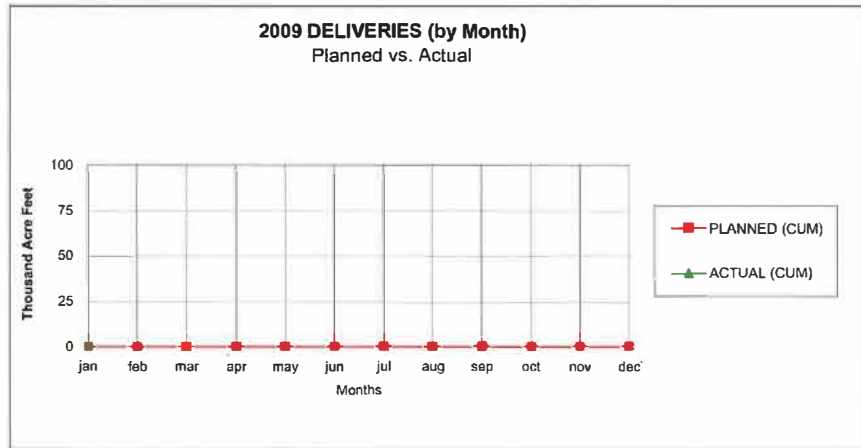
2009 Plan of Operation

INTRASTATE



2009 Plan of Operation

INTERSTATE



Actual deliveries updated
Plan of Operation

20-Mar-09
1-Jan-09

Phoenix AMA

Intrastate

	jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	dec	total
GRUSP	0	0	0	0	0	0	0	0	0	0	0	0	0
AGUA FRIA	0	0	0	0	0	0	0	0	0	0	0	0	0
HIEROGLYPHIC MTNS	0	0	0	0	0	0	0	0	0	0	0	0	0
TONOPAH DESERT	0	0	0	0	0	0	0	0	0	0	0	0	0
CHCID	0	0	0	0	0	0	0	0	0	0	0	0	0
NMIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
QCID	0	0	0	0	0	0	0	0	0	0	0	0	0
SRP	0	0	0	0	0	0	0	1,343	2,285	2,285	1,142	1,142	8,197
GRIIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	0	0	1,402	5,711	10,475	8,365	5,373	0	0	0	31,326
Total to date	0	0	0	0	0	0	0	0	0	0	0	0	0
Projected total to date	0	0	0	0	1,402	7,113	17,588	27,296	34,954	37,239	38,381	39,523	39,523

Interstate

GRUSP	0	0	0	0	0	0	0	0	0	0	0	0	0
AGUA FRIA	0	0	0	0	0	0	0	0	0	0	0	0	0
HIEROGLYPHIC MTNS	0	0	0	0	0	0	0	0	0	0	0	0	0
TONOPAH DESERT	0	0	0	0	0	0	0	0	0	0	0	0	0
CHCID	0	0	0	0	0	0	0	0	0	0	0	0	0
NMIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
QCID	0	0	0	0	0	0	0	0	0	0	0	0	0
SRP	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
Subtotal	0	0	0	0	0	0	0	0	0	0	0	0	0
Total to date	0	0	0	0	0	0	0	0	0	0	0	0	0
Projected total to date	0	0	0	0	0	0	0	0	0	0	0	0	0

Combined

Subtotal	0	0	0	0	0	0	0	0	0	0	0	0	0
Total to date	0	0	0	0	0	0	0	0	0	0	0	0	0
Projected total to date	0	0	0	0	1,402	7,113	17,588	27,296	34,954	37,239	38,381	39,523	39,523

Actual deliveries updated		20-Mar-09												total
Plan of Operation		1-Jan-09												
		jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	dec	
Pinal AMA														
Intrastate	CAIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
		0	0	0	1,500	2,000	5,500	5,500	5,500	5,500	4,750	1,750	500	32,500
	MSIDD	3,240	2,000	0	0	0	0	0	0	0	0	0	0	5,240
		930	1,030	2,070	2,590	3,110	3,120	3,110	3,110	4,050	5,570	3,090	720	32,500
	HIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
GRIIDD		0	0	0	0	0	0	0	0	0	0	0	0	
		0	0	0	0	5,000	0	0	0	0	0	0	0	5,000
Subtotal		3,240	2,000	0	0	0	0	0	0	0	0	0	0	5,240
Total to date		3,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240
Projected total to date		930	1,960	4,030	8,120	13,230	21,850	30,460	39,070	48,620	58,940	63,780	65,000	70,000
Interstate	CAIDD	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	0
	MSIDD	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	0
	HIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal		0	0	0	0	0	0	0	0	0	0	0	0	0
Total to date		0	0	0	0	0	0	0	0	0	0	0	0	0
Projected total to date		0	0	0	0	0	0	0	0	0	0	0	0	0
Combined														
Subtotal		3,240	2,000	0	0	0	0	0	0	0	0	0	0	5,240
Total to date		3,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240	5,240
Projected total to date		930	1,960	4,030	8,120	13,230	21,850	30,460	39,070	48,620	58,940	63,780	65,000	70,000
Tucson AMA														
Intrastate	AVRA VALLEY	480	0	0	0	0	0	0	0	0	0	0	0	480
		500	500	500	500	500	500	0	0	0	0	0	0	3,000
	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	0
	PIMA MINE	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	0
LOWER SANTA CRUZ		2,000	0	0	0	0	0	0	0	0	0	0	0	2,000
		2,000	2,000	2,000	0	0	0	0	0	0	0	0	0	6,000
SAVSARP		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	0
Subtotal		2,480	0	0	0	0	0	0	0	0	0	0	0	2,480
Total to date		2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480
Projected total to date		2,500	5,000	7,500	8,000	8,500	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000
Interstate	AVRA VALLEY	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	0
	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	0
	PIMA MINE	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	0
LOWER SANTA CRUZ		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	0
SAVSARP		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	0
Subtotal		0	0	0	0	0	0	0	0	0	0	0	0	0
Total to date		0	0	0	0	0	0	0	0	0	0	0	0	0
Projected total to date		0	0	0	0	0	0	0	0	0	0	0	0	0
Combined														
Subtotal		2,480	0	0	0	0	0	0	0	0	0	0	0	2,480
Total to date		2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480	2,480
Projected total to date		2,500	5,000	7,500	8,000	8,500	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000
TOTAL														
Subtotal		5,720	2,000	0	0	0	0	0	0	0	0	0	0	7,720
Total to date		5,720	7,720	7,720	7,720	7,720	7,720	7,720	7,720	7,720	7,720	7,720	7,720	7,720
Projected total to date		3,430	6,960	11,530	16,120	23,132	37,963	57,048	75,366	92,574	105,179	111,161	113,523	118,523

**CENTRAL ARIZONA PROJECT
ANNUAL RECOVERY PLAN & USE**

Calendar Year 2009

(in acre-feet)

Revised 3/11/09

Pinal County Irrigation Districts Recovery Schedule:

MONTH	MSIDD		CAIDD		HIDD		CAGR D EXCHANGE		TOTAL	
	SCH	Used	SCH	Used	SCH	Used	SCH	Used	SCH	Used
Jan	700	816	500	605	0	0	0	0	1,200	1,421
Feb	900	1,122	500	631	0	0	0	0	1,400	1,753
Mar	1,500	0	1,200	0	0	0	0	0	2,700	0
Apr	1,600	0	1,200	0	0	0	0	0	2,800	0
May	1,200	0	1,400	0	0	0	0	0	2,600	0
Jun	700	0	1,500	0	500	0	0	0	2,700	0
Jul	500	0	1,500	0	500	0	0	0	2,500	0
Aug	1,100	0	1,500	0	500	0	0	0	3,100	0
Sep	1,500	0	1,200	0	500	0	0	0	3,200	0
Oct	1,500	0	250	0	500	0	0	0	2,250	0
Nov	1,800	0	250	0	500	0	0	0	2,550	0
Dec	0	0	0	0	0	0	3,000	0	3,000	0
Total	13,000	1,938	11,000	1,236	3,000	0	3,000	0	30,000	3,174

* Recovered water will be posted as Ag Settlement Pool water on all monthly delivery reports.

Total MWD credits for recovery (5% cut to aquifer + 4,909 af losses)	= 80,909 AF
Less 2007 total recovered credits:	= 16,804 AF
Less 2008 total recovered credits: (*)	= 28,442 AF
Less 2009 total recovered credits:	= <u>3,174 AF</u>
Remaining credits to be recovered by CAP:	= 32,489 AF

FY 09 Arizona Water Banking Fund - Approved 2008 and Proposed Amended 2009 Plan of Operations with Expenditure of Interstate Funds

	Phoenix				Grants/ Donations	Admin	Indian ¹ Firming	Total
	AMA	Pinal AMA	Tucson AMA	Nevada				
Feb Ending Balance	406,323	937,362	381,154	19,182,530	-	890,024	274,321	22,071,713
Legislative Transfer				(9,196,600)				(9,196,600)
New Ending Balance	406,323	937,362	381,154	9,985,930	-	890,024	274,321	12,875,113
Mar-09								
Estimated Revenue	-	-	-	34,177	-	7,296	9,493	50,967
Expenditures (in-process)	-	162,000	-	-	-	-	262,880	424,880
Expenditures (scheduled)	-	-	246,186	-	-	42,000	20,934	309,120
Legislative Transfer	-	-	-	(387,300)	-	-	-	(387,300)
ADWR Transfer	-	-	-	(2,243,317)	-	-	-	(2,243,317)
Internal Fund Transfer	(406,323)	(775,362)	-	1,181,685	-	-	-	-
Est. Ending Balance	-	-	134,968	8,571,175	-	855,320	-	9,561,463
Apr-09								
Estimated Revenue	1,700,000	1,200,000	460,000	3,230	-	760	-	3,363,990
Expenditures (scheduled)	-	-	265,000	5,175,000	-	42,000	-	5,482,000
ADWR Transfer	-	-	-	(756,683)	-	-	-	(756,683)
Internal Fund Transfer	(1,700,000)	(1,118,000)	(150,000)	2,968,000	-	-	-	-
Est. Ending Balance	-	82,000	179,968	5,610,722	-	814,080	-	6,686,770
May-09, Jun-09								
Estimated Revenue	-	-	-	475	-	1,680	-	2,155
Expenditures (scheduled) ²	-	82,000	159,000	-	-	42,000	-	283,000
Transfers Out	-	-	-	-	-	3,200	-	3,200
Est. Ending Balance	-	-	20,968	5,611,197	-	770,560	-	6,402,725

¹ Funds available to the AWBA. Total fund ending balance for February is \$1,108,134.08

² Expenditures from the Pinal AMA fund is for the direct delivery of 1,000 acre-feet for the Southside Replenishment Bank.

Updated March 25, 2009

RECEIVED
SECRETARY OF STATE

ARIZONA

2008 DEC 16 PM 2:20

IF LOBBYISTS COMPENSATED,

CHECK BOX:

AND

ATTACH \$25 CHECK PAYABLE TO
ARIZONA SECRETARY OF STATE

File with:
Secretary of State
State Capitol, 7th Floor
1700 W. Washington Street
Phoenix, AZ 85007-2808

PUBLIC BODY REGISTRATION

FOR LOBBYING

A.R.S. § 41-1232.01 (A) (D)

INITIAL REGISTRATION

RENEWAL OF REGISTRATION

Attn: Elections Services Division

PUBLIC BODY ID NUMBER		E-mail Address hrquenther@azwater.gov	
NAME OF PUBLIC BODY Please type or print clearly Arizona Water Bank Authority		BUSINESS TELEPHONE # (602) 771-8426	BUSINESS FAX # 771-8681
BUSINESS ADDRESS 3550 N Central Ave		CITY Phoenix	STATE AZ
		ZIP CODE 85012	
NAME OF DESIGNATED PUBLIC LOBBYIST Herbert R. Guenther		BUSINESS TELEPHONE # 602-771-8426	BUSINESS FAX #
BUSINESS ADDRESS 3550 N Central Ave		CITY Phoenix	STATE AZ
		ZIP CODE 85012	

• Expenses for which designated public lobbyist is to be reimbursed: (Check all that apply)

- Meals Travel Lodging Out of Pocket Expenses
 Other (Please describe)

Check box and attach Schedule B if public body engages authorized public lobbyists other than designated public lobbyist.

Check box and attach Schedule C to list additional employees who lobby for this public body.

➔ NOTICE: Amended forms must be filed within five (5) business days of any changes that occur. [§41-1232(C)]

STATE OF Arizona)
COUNTY OF Maricopa) ss

I, the undersigned, being duly sworn, state that this Public Body Registration for Lobbying is complete and that to the best of my knowledge and belief the information above is true and correct.

Herbert R. Guenther
Signature of Designated Public Lobbyist

SUBSCRIBED AND SWORN TO (Affirmed) before me on December 15, 2008
Date

June 15, 2012
My Commission Expires

Glenda Winters
Notary Public



RECEIVED
SECRETARY OF STATE

File with:
Secretary of State
State Capitol, 7th Floor
1700 W. Washington Street
Phoenix, AZ 85007-2808

ARIZONA

2008 DEC 16 PM 2:20

LOBBYIST REGISTRATION FOR DESIGNATED LOBBYIST DESIGNATED PUBLIC LOBBYIST OR LOBBYIST FOR COMPENSATION A.R.S. § 41-1232.05

INITIAL REGISTRATION

RENEWAL OF REGISTRATION

Attn: Election Services Division

LOBBYIST ID # <i>PL 001</i>		E-mail Address <i>hrguenther@azwater.gov</i>		
NAME OF LOBBYIST <i>HERBERT R. GUENTHER</i>		BUSINESS TELEPHONE # <i>602 771 8426</i>	BUSINESS FAX # <i>602 771-8681</i>	
BUSINESS ADDRESS <i>3550N. Central Ave., Ste 442</i>		CITY <i>Phoenix</i>	STATE <i>AZ</i>	ZIP CODE <i>85012-2105</i>

CHECK ALL THAT APPLY:

DESIGNATED LOBBYIST DESIGNATED PUBLIC LOBBYIST LOBBYIST FOR COMPENSATION

NO IF LOBBYIST HAS EMPLOYEES WHO ACT AS LOBBYISTS, CHECK BOX AND ATTACH A COPY OF SCHEDULE C LISTING THOSE EMPLOYEES.

I HAVE READ THE LOBBYIST HANDBOOK.

STATE OF Arizona)
COUNTY OF Maricopa) SS

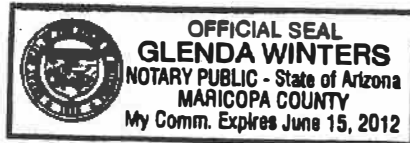
I, the undersigned, being duly sworn, state that I am the Lobbyist in the foregoing Lobbyist Registration and that to the best of my knowledge and belief the information above is true and correct.

Herbert R. Guenther
Signature of Lobbyist

SUBSCRIBED AND SWORN TO (Affirmed) before me on December 15, 2008
Date

June 15, 2012
My Commission Expires

Glenda Winters
Notary Public



Forms may be photocopied
if extra pages are needed

*Definitions on reverse

ARIZONA
REGISTRATION FOR LOBBYING

LIST OF **AUTHORIZED LOBBYISTS*** (FOR PRINCIPALS) AND **AUTHORIZED PUBLIC LOBBYISTS*** (FOR PUBLIC BODIES) A.R.S. § 41-1232.01 (A) (3)

RECEIVED
SECRETARY OF STATE
SCHEDULE B

2000 DEC 16 PM 2:20

ANB A

Arizona Water Bank Authority
NAME OF PRINCIPAL / PUBLIC BODY

PRINCIPAL / PUBLIC BODY ID #

NAME OF LOBBYIST <i>Gregg Houtz</i>	BUSINESS TELEPHONE # <i>602-771-8472</i>	BUSINESS FAX # <i>771-8683</i>	
BUSINESS ADDRESS <i>3550 N Central Ave</i>	CITY <i>Phoenix</i>	STATE <i>AZ</i>	ZIP CODE <i>85012</i>
EXPENSES FOR WHICH LOBBYIST IS TO BE REIMBURSED (CHECK ALL THAT APPLY)			
<input type="checkbox"/> Meals	<input type="checkbox"/> Travel	<input type="checkbox"/> Lodging	<input type="checkbox"/> Out Of Pocket Expenses
<input type="checkbox"/> Other (Please describe)			

NAME OF LOBBYIST <i>Kim Mitchell</i>	BUSINESS TELEPHONE # <i>602-771-8490</i>	BUSINESS FAX # <i>771-8685</i>	
BUSINESS ADDRESS <i>3550 N Central Ave</i>	CITY <i>Phoenix</i>	STATE <i>AZ</i>	ZIP CODE <i>85012</i>
EXPENSES FOR WHICH LOBBYIST IS TO BE REIMBURSED (CHECK ALL THAT APPLY)			
<input type="checkbox"/> Meals	<input type="checkbox"/> Travel	<input type="checkbox"/> Lodging	<input type="checkbox"/> Out Of Pocket Expenses
<input type="checkbox"/> Other (Please describe)			

NAME OF LOBBYIST	BUSINESS TELEPHONE #	BUSINESS FAX #	
BUSINESS ADDRESS	CITY	STATE	ZIP CODE
EXPENSES FOR WHICH LOBBYIST IS TO BE REIMBURSED (CHECK ALL THAT APPLY)			
<input type="checkbox"/> Meals	<input type="checkbox"/> Travel	<input type="checkbox"/> Lodging	<input type="checkbox"/> Out Of Pocket Expenses
<input type="checkbox"/> Other (Please describe)			

NAME OF LOBBYIST	BUSINESS TELEPHONE #	BUSINESS FAX #	
BUSINESS ADDRESS	CITY	STATE	ZIP CODE
EXPENSES FOR WHICH LOBBYIST IS TO BE REIMBURSED (CHECK ALL THAT APPLY)			
<input type="checkbox"/> Meals	<input type="checkbox"/> Travel	<input type="checkbox"/> Lodging	<input type="checkbox"/> Out Of Pocket Expenses
<input type="checkbox"/> Other (Please describe)			

NAME OF LOBBYIST	BUSINESS TELEPHONE #	BUSINESS FAX #	
BUSINESS ADDRESS	CITY	STATE	ZIP CODE
EXPENSES FOR WHICH LOBBYIST IS TO BE REIMBURSED (CHECK ALL THAT APPLY)			
<input type="checkbox"/> Meals	<input type="checkbox"/> Travel	<input type="checkbox"/> Lodging	<input type="checkbox"/> Out Of Pocket Expenses
<input type="checkbox"/> Other (Please describe)			

Amended 2009 Plan of Operation

The 2009 Plan of Operation (Plan) has been amended to include additional supplies and to change the class of a portion of the deliveries originally scheduled.

The AWBA was informed in March that it had an additional 15,124 acre-feet of water available because of subcontract water that had been turned back for remarket. This water had originally been scheduled for the Tucson Active Management Area (AMA). The 2009 Plan has been amended to include delivery of this water to the Central Avra Valley Storage and Recovery Project (CAVSARP) located in the Tucson AMA. The water will be stored as incentive priced water for the purpose of meeting the municipal and industrial firming goals in that AMA.

Furthermore, the 2009 Plan had identified 70,000 acre-feet of intrastate water deliveries to the Pinal AMA: 32,500 acre-feet each to the Central Arizona Irrigation and Drainage District (CAIDD) and Maricopa-Stanfield Irrigation and Drainage District (MSIDD) and 5,000 acre-feet to the Gila River Indian Irrigation and Drainage District (GRIIDD). Of these deliveries, an estimated 30,000 acre-feet were to be purchased utilizing withdrawal fees collected in the Pinal AMA. However because of a shortfall in the State's budget, a total of \$12.6 million will be transferred from the AWBA fund in accordance with Senate Bill 1001. These monies will be transferred from the Nevada subaccount and the Phoenix, Pinal, and Tucson AMA withdrawal fee subaccounts, resulting in zero to near zero balances in the Phoenix and Pinal AMA subaccounts, respectively. While the Central Arizona Water Conservation District (CAWCD) has sufficient funds available in the Maricopa County *ad valorem* tax fund to offset the AWBA's water delivery costs for the Phoenix AMA, the same is not true for the Pinal County fund. Therefore, to preserve the AWBA's originally scheduled deliveries to the Pinal AMA, a total of 25,000 acre-feet of deliveries, 12,500 acre-feet each to CAIDD and MSIDD, have been rescheduled as interstate deliveries utilizing funds available in the Nevada subaccount.

The AWBA has water storage permits for the GRIIDD Groundwater Savings Facility (GSF) in both the Phoenix and Pinal AMAs. With respect to the 5,000 acre-feet of deliveries to the GRIIDD GSF discussed above, 4,000 acre-feet has been rescheduled to the Phoenix AMA, leaving 1,000 acre-feet remaining for the Pinal AMA. This water is being held in reserve for the establishment of the Southside Replenishment Bank anticipating an intergovernmental agreement with the Gila River Indian Community. This is the minimum amount that must be delivered on an annual basis until the 15,000 acre-feet maximum requirement has been met.

The 2009 Plan of Operation (Plan) has been amended to include additional supplies and water deliveries for interstate banking purposes. The following paragraphs have been changed and constitute the Amended 2009 Annual Plan of Operation.

Page 7, second paragraph

I. Water Availability

The AWBA had planned to deliver for storage a total of 118,523 acre-feet under the original 2009 Plan of Operation (Plan). In March, an additional 15,124 acre-feet of water available became available to the AWBA. The 2009 Plan was amended to include delivery of this additional water to the Central Avra Valley Storage and Recovery Project (CAVSARP) located in the Tucson AMA. Thus, the total deliveries scheduled under the 2009 Amended Plan are 133,647 acre-feet.

Page 8, paragraphs 1 and 2

III. Available Funds

The AWBA will have limited withdrawal fees available for use in this Amended Plan for intrastate storage. Because of a shortfall in the State's fiscal year 2009 budget, \$12.6 million was transferred from the AWBA fund in accordance with Senate Bill 1001. Of this amount, an estimated \$4.1 million will come from the withdrawal fee subaccounts for the three AMAs and will include 2009 collections and carryover from 2008. An estimated \$764,000 will remain for use in this Amended Plan: \$82,000 for the Pinal AMA and \$682,000 for the Tucson AMA. The remaining \$8.5 will be transferred from the Nevada subaccount.

As in previous years, the CAWCD Board resolved to continue to retain the county *ad valorem* property taxes collected and not transfer those revenues to the AWBA Fund. Property tax revenues retained by CAWCD can be used to offset the cost of AWBA water deliveries in the tri-county CAWCD service area. The estimated *ad valorem* tax balances available for 2009, including carryover, are: Maricopa County (\$91 million), Pinal County (\$2.48 million), and Pima County (\$10.1 million).

Page 9, Table 2

Amended Table 2 Water Delivery Schedule Calendar Year 2009 (Acre-feet)															
AWBA-Recharge Sites		Permitted Capacity (AF)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
PHOENIX AMA :															
USF	West Maricopa Combine	25,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	HIEROGLYPHIC	35,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	AGUA FRIA	100,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	TONOPAH DESERT	150,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	TONOPAH Interstate		0	0	0	0	0	0	0	0	0	0	0	0	0
															0
GSF	SRP	100,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	CHANDLER HGTS ID	3,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	NEW MAGMA	54,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	QUEEN CREEK	28,000	0	0	0	0	0	0	0	1,343	2,285	2,285	1,142	1,142	8,197
	TONOPAH ID	15,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	GILA RIVER INDIAN IDD	37,520	0	0	0	0	5,402	5,711	10,475	8,365	5,373	0	0	0	35,326
															43,523
	TOTAL INTRASTATE		0	0	0	0	5,402	5,711	10,475	9,708	7,658	2,285	1,142	1,142	43,523
	TOTAL INTERSTATE		0	0	0	0	0	0	0	0	0	0	0	0	0
AMA TOTAL			0	0	0	0	5,402	5,711	10,475	9,708	7,658	2,285	1,142	1,142	43,523
PINAL AMA :															
GSF	CAIDD	110,000	0	0	0	1,500	2,000	5,500	5,500	5,500	0	0	0	0	20,000
	CAIDD Interstate		0	0	0	0	0	0	0	0	5,500	4,750	1,750	500	12,500
	HOHOKAM	55,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	HOHOKAM Interstate		0	0	0	0	0	0	0	0	0	0	0	0	0
	MSIDD	120,000	3,240	2,000	2,070	2,590	3,110	3,120	3,110	760	0	0	0	0	20,000
	MSIDD Interstate		0	0	0	0	0	0	0	0	3,120	5,570	3,090	720	12,500
	GILA RIVER INDIAN IDD	18,480	0	0	0	0	1,000	0	0	0	0	0	0	1,000	
															66,000
	TOTAL INTRASTATE		3,240	2,000	2,070	4,090	6,110	8,620	8,610	6,260	0	0	0	0	41,000
	TOTAL INTERSTATE		0	0	0	0	0	0	0	8,620	10,320	4,840	1,220	25,000	
AMA TOTAL			3,240	2,000	2,070	4,090	6,110	8,620	8,610	6,260	8,620	10,320	4,840	1,220	66,000
TUCSON AMA:															
USF	AVRA VALLEY	11,000	480	0	500	500	500	500	520	0	0	0	0	0	3,000
	PIMA MINE RD	30,000	0	0	0	0	0	0	0	0	0	0	0	0	0
	PMR Interstate		0	0	0	0	0	0	0	0	0	0	0	0	0
	LOWER SANTA CRUZ	50,000	2,000	0	2,000	2,000	0	0	0	0	0	0	0	0	6,000
	LSC Interstate		0	0	0	0	0	0	0	0	0	0	0	0	0
	CAVSARP	100,000	0	0	0	5,000	5,000	5,124	0	0	0	0	0	0	15,124
	SAVSARP	60,000	0	0	0	0	0	0	0	0	0	0	0	0	0
															24,124
GSF	BKW	16,615	0	0	0	0	0	0	0	0	0	0	0	0	0
	KAI FARMS (Red Rock)	11,231	0	0	0	0	0	0	0	0	0	0	0	0	0
	TOTAL INTRASTATE		2,480	0	2,500	7,500	5,500	5,624	520	0	0	0	0	0	24,124
	TOTAL INTERSTATE		0	0	0	0	0	0	0	0	0	0	0	0	
AMA TOTAL			2,480	0	2,500	7,500	5,500	5,624	520	0	0	0	0	0	24,124
Outside AMA:															
	HARQUAHALA VALLEY ID	50,000	0	0	0	0	0	0	0	0	0	0	0	0	0
OUTSIDE TOTAL															0
TOTAL INTRASTATE			5,720	2,000	4,570	11,590	17,012	19,955	19,605	15,968	7,658	2,285	1,142	1,142	108,647
TOTAL INTERSTATE			0	0	0	0	0	0	0	8,620	10,320	4,840	1,220	25,000	
TOTAL			5,720	2,000	4,570	11,590	17,012	19,955	19,605	15,968	16,278	12,605	5,982	2,362	133,647

Indian Firming

The Settlements Act recognizes three categories where the State has firming responsibilities. The first two obligations pertain to firming of water for the Gila River Indian Community (GRIC) and other Arizona tribes in times of shortage for a 100-year period; the third obligation pertains to providing assistance to the Secretary of the Interior (Secretary) in carrying out obligations of the Southern Arizona Water Rights Settlement Act.

1. GRIC - The AWBA must ensure that up to 15,000 acre-feet per year of CAP NIA priority water be made available to the GRIC. The 2009 Plan had included 31,326 acre-feet of water storage deliveries for this purpose. However, because of the legislative transfer of funds from the Phoenix and Pinal AMA withdrawal fee subaccounts, the 2009 Amended Plan does not include deliveries for meeting this obligation.

Page 11, paragraph 1

GRIC Water Settlement Program

In addition to the firming requirements of the Settlements Act, the AWBA, acting as agent for the State, is required to enter into an inter-governmental agreement (IGA) with GRIC for direct delivery of 15,000 acre-feet of water for the purpose of establishing the Southside Replenishment Bank. A minimum of 1,000 acre-feet per year is to be delivered to the GRIC to establish this Bank. The Southside Replenishment Bank will fulfill the obligations created under the Settlements Act for protection of the Reservation from off-reservation groundwater pumping. The 2009 Amended Plan includes 1,000 acre-feet of direct deliveries to the GRIC for this purpose anticipating the execution of the IGA.

Page 11, paragraph 2

INTERSTATE WATER BANKING

The 2009 Amended Plan has been updated to include an interstate water banking component for the State of Nevada. The legislative transfer of funds resulted in zero to near zero balances for the Phoenix and Pinal AMA withdrawal fee subaccounts, respectively. While CAWCD has sufficient funds available in the Maricopa County *ad valorem* tax fund to offset the AWBA's water delivery costs for the Phoenix AMA, the same is not true for the Pinal County fund. Therefore, to preserve the AWBA's originally scheduled deliveries to the Pinal AMA, a total of 25,000 acre-feet of deliveries have been rescheduled as interstate deliveries utilizing funds available in the Nevada subaccount. If more water becomes available later in the year after all storage for intrastate purposes has been maximized, the AWBA could store additional supplies for interstate banking to ensure that Arizona's full entitlement is diverted from the Colorado River.

Table 5. Funding for 2009 Amended Annual Plan of Operation

	Funds Available (\$)		Funds Utilized (\$)		Credits (AF)
	AWBA	CAWCD	AWBA	CAWCD	
Withdrawal Fees					
Phoenix AMA	\$0	-	\$0	-	0
Pinal AMA ¹	\$82,000	-	\$82,000	-	0
Tucson AMA	\$682,000	-	\$682,000	-	5,990
Four Cent Tax					
Phoenix AMA	\$0	\$91,032,000	\$0	\$2,600,062	40,480
Pinal AMA	\$0	\$2,478,000	\$0	\$2,000,000	37,200
Tucson AMA ²	\$0	\$10,134,000	\$0	\$1,445,000	13,950
Other					
General	\$0				
Phoenix AMA		-	\$0	-	0
Pinal AMA		-	\$0	-	0
Tucson AMA		-	\$0	-	0
Indian Firming	\$284,000				
Phoenix AMA		-	\$0	-	0
Pinal AMA		-	\$0	-	0
Tucson AMA		-	\$284,000	-	2,490
Gifts, Grants, Donations					
Shortage Reparations ³ (NV):	\$0				
Phoenix AMA		-	\$0	-	0
Pinal AMA		-	\$0	-	0
Tucson AMA		-	\$0	-	0
Interstate Banking					
Nevada ⁴	\$10,748,300		\$5,175,000		23,250
California	(not applicable)				
	Total Funds Available		Total Funds Expended		Credits
	\$115,440,300		\$12,268,062		123,360

¹ Includes expenditures for 1,000 acre-feet of direct deliveries for establishing the Southside Replenishment Bank under the Gila River Indian Water Settlement Program.

² Includes CAWCD's capital charge recovery for costs of construction of state demonstration projects when facilities are used for interstate purposes and by entities that do not pay the 4¢ *ad valorem* tax. Revenue through 2008 is estimated to be \$1,368,863.

³ Southern Nevada Water Authority (SNWA) agreed to provide \$8M to the AWBA to assist Arizona in offsetting impacts from shortages pursuant to Arizona-Nevada Shortage-Sharing Agreement. Approximately \$2.3M of these funds were expended in 2008.

⁴ Balance available in the Interstate Resource Account.

Summary of Modifications to the Second Amended Agreement for Interstate Water Banking

This correspondence provides an update to Commission members on activities over the last three months concerning the Amended Agreement for Interstate Water Banking (Amended Agreement) and summarizes the proposed modifications to the Second Amended Agreement for Interstate Water Banking (Second Amended Agreement).

At our last meeting on January 7th, the AWBA Commission discussed Southern Nevada Water Authority's (SNWA) request for an opportunity to discuss potential changes to the Amended Agreement. AWBA staff acknowledged the merits of SNWA's request to address conditions that have changed since the Amended Agreement was executed and to create flexibility in its operation. The Commission agreed to toll the performance dates of the Amended Agreement for 90 days while formal changes were considered. AWBA staff met with SNWA and CAWCD to incorporate modifications to the Amended Agreement. The Second Amended Agreement was approved by the SNWA at their March 19th Board meeting. The Colorado River Commission of Nevada (CRCN) will be meeting on March 31st to take action on approving the Second Amended Agreement. It is anticipated that following approval by CRCN, the document will be sent via overnight mail for potential approval and final execution by the Commission at our April 1st AWBA meeting.

Below is a short description of modifications reflected in the highlighted copy of the Second Amended Agreement.

- 1.1.15 Definition of "Recovery Facilities" added.
- 1.2.2 Wording changed to accommodate language changes in 3.3.1 that allows credit exchange as a valid method for creation of ICUA. Original sentence stated "AWBA shall recover the Long-term Storage Credits at a later date and exchange the recovered water with other Colorado River water users in Arizona to develop ICUA". Amended sentence states "AWBA shall utilize the Long-term Storage Credits at a later date to develop ICUA".
- 2.2.1 This subarticle has been changed to reference the appropriate IGA. The original subsection referred to the IGA among AWBA, CAWCD and ADWR that had included provisions for the delivery of Excess CAP Water. Those provisions are now included in the Agreement between CAWCD and AWBA Providing for the Delivery of Excess CAP Water.
- 3.1.1 and 3.1.1.1. These subarticles accommodate changes to allow for ramping up of recovery over a multi-year period rather than listing specific years at which recovery occurs (2007 through 2011).

- 3.2.1 Now refers to SNWA conferring with AWBA prior to June 1 of the preceding year in which ICUA is to be developed; allows earlier coordination with NV and CAWCD in forecasting water storage/recovery.
- 3.2.2 and 3.3.1.1 and 3.3.6 and 5.1.1 Reference to coordination with CRCN has been deleted. While CRCN needs to be a signatory to the Second Amended Agreement because of their contracting obligations in Nevada, operation procedures fall to SNWA. These subarticles deal with coordination and reporting on the operational aspects of the agreement.
- 3.3.1 This subarticle has been changed and language added to allow for credit exchange as a valid method for the development of ICUA pursuant to the Storage and Interstate Release Agreement.
- 3.5.8 This subarticle was deleted (“The schedule dates and periods established by this Subarticle 3.5 may be changed upon written agreement of all parties”.) and is now addressed under 5.2.
- 5.2 This subarticle allows the flexibility to modify certain articles of the agreement, after approval of the AWBA and SNWA, to accommodate changing circumstances.

KRM
3/26/09

SECOND AMENDED AGREEMENT FOR INTERSTATE WATER BANKING

among

**The Arizona Water Banking Authority
and
The Southern Nevada Water Authority and The
Colorado River Commission of Nevada**

This Second Amended Interstate Water Banking Agreement (Agreement) is made as of April __, 2009 (Effective Date), among the Arizona Water Banking Authority (AWBA), and the Southern Nevada Water Authority (SNWA) and the Colorado River Commission of Nevada (CRCN), collectively referred to as "Parties" and individually as "Party."

Recitals

A. The Arizona Water Banking Authority is an agency of the State of Arizona expressly authorized by A.R.S. § 45-2401 *et seq.* to engage in the interstate banking of Colorado River water on behalf of the State of Arizona. The statutory conditions of A.R.S. §§ 45-2427 and 45-2471 have been satisfied, this Agreement conforms to all of the requirements of such sections and all other applicable provisions of Arizona law, and AWBA is empowered to enter into this Agreement.

B. The Southern Nevada Water Authority 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 Art. II(B)(6) of the Consolidated Decree.

C. 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, makes this Agreement to facilitate the banking of Colorado River water, the crediting of Long-term Storage Credits, and the development of ICUA for SNWA.

D. On July 3, 2001, the Parties entered into the original Agreement for Interstate Water Banking (Original Agreement). In the Original Agreement, and subject to its limitations, AWBA committed to use its best efforts to create Long-term Storage Credits in an initial amount of 1,200,000 acre-feet for SNWA, to be held in an SNWA Interstate Account established with the Arizona Department of Water Resources and, on request of SNWA, to recover such credits and

cause the development of Intentionally Created Unused Apportionment of Colorado River water (ICUA) for SNWA. SNWA agreed to reimburse AWBA for its costs on an annual basis.

E. On December 18, 2002, the United States, acting through the Secretary of the Interior, AWBA, SNWA, and CRCN entered into a Storage and Interstate Release Agreement (SIRA) pursuant to the Secretary's regulations at 43 C.F.R. Part 414, Offstream Storage of Colorado River Water and Development of and Release of Intentionally Created Unused Apportionment in the Lower Division States. In the SIRA, the Secretary committed to release ICUA developed by AWBA in accordance with the request of SNWA, the terms of the SIRA, and certain specified determinations of the Secretary.

F. The Original Agreement was amended on January 1, 2005 (Amended Agreement) whereby the Parties amended and restated in its entirety the Original Agreement to provide (1) a specific commitment by AWBA to have credited to the SNWA Interstate Account Long-Term Storage Credits in an aggregate amount, including those heretofore credited, of 1,250,000 acre-feet, (2) a commitment by AWBA, on request of SNWA, to recover such credits and to develop ICUA for SNWA's benefit up to a specified annual maximum, and (3) specified payments to be made by SNWA in consideration of AWBA's commitments respecting the crediting of such Long-Term Storage Credits.

G. Prior to the effective date of the Amended Agreement, AWBA established a long-term storage sub-account entitled "SNWA Interstate Account" with the Arizona Department of Water Resources (ADWR). As of the effective date of the Amended Agreement Long-term Storage Credits had been credited to such account, consisting of (1) 50,000 acre-feet of Long-term Storage Credits, constituting all of the Long-term Storage Credits held by CAWCD for the benefit of SNWA as of the effective date of the Original Agreement, and (2) all of the Long-term Storage Credits existing by virtue of Colorado River water stored, or other Long-term Storage Credits transferred to such account, pursuant to the Original Agreement.

ARTICLE 1

DEFINITIONS, FUNDAMENTAL PRINCIPLES AND TERMS

1.1 Definitions. For purposes of this Agreement, terms that are defined in Article I of the Consolidated Decree, terms that are defined in Arizona Revised Statutes (A.R.S.) Title 45, Chapter 3.1, and terms that are defined in 43 C.F.R. Part 414 shall have the meaning there stated. The following terms shall have the meaning defined here, unless the context manifestly requires otherwise. Defined terms are identified by initial letter capitalization.

1.1.1 "ADWR" shall mean Arizona Department of Water Resources.

1.1.2 "Agreement" shall mean this Amended Agreement for Interstate Water Banking.

1.1.3 "AWBA" shall mean the Arizona Water Banking Authority.

- 1.1.4 "AWBA Plan of Operation" shall mean the plan by which AWBA shall operate during the Year as defined in A.R.S. § 45-2456.
- 1.1.5 "Bureau of Reclamation" shall mean the United States Bureau of Reclamation, Lower Colorado Region.
- 1.1.6 "CAP" shall mean the Central Arizona Project, as authorized by the Colorado River Basin Project Act, 43 U.S.C. § 1501 *et seq.*, and as operated under that certain Master Repayment Contract dated December 1, 1988, Contract No. 14-06-W-245 between CAWCD and the United States Bureau of Reclamation, as amended.
- 1.1.7 "CAWCD" shall mean the Central Arizona Water Conservation District.
- 1.1.8 "CRCN" shall mean the Colorado River Commission of Nevada.
- 1.1.9 "Consolidated Decree" shall mean the Consolidated Decree entered by the United States Supreme Court in *Arizona v. California*, 126 S.Ct. 1543, 547 U.S. 150 (2006).
- 1.1.10 "Excess CAP Water" shall mean CAP water that is available for distribution by CAWCD in accordance with §8.7(e) of the Master Repayment Contract or §5(d)(2) of the Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay and Ultimate Judgment upon Satisfaction of Conditions, filed with the United States District Court on May 3, 2000, in *Central Arizona Water Conservation District v. United States, et al.*, No. CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC (consolidated), and in accordance with policies established by the CAWCD Board.
- 1.1.11 "ICUA" shall mean Intentionally Created Unused Apportionment as that term is defined in 43 C.F.R. § 414.2.
- 1.1.12 "Interstate Recovery Schedule" shall have the meaning defined in the Agreement for Development of Intentionally Created Unused Apportionment.
- 1.1.13 "Long-term Storage Credit" shall mean Long-term Storage Credit as defined in A.R.S. § 45-802.01(11).
- 1.1.14 "Master Repayment Contract" shall mean that Contract No. 14-06-W-245 dated December 1, 1988, between CAWCD and the United States Bureau of Reclamation, as amended.
- 1.1.15 "Recovery Facilities" shall mean constructed facilities capable of recovering both intrastate and interstate Long-term Storage Credits.

FINAL DRAFT

- 1.1.16 "Secretary" shall mean the Secretary of the Interior for the United States, Department of the Interior.
- 1.1.17 "SNWA" shall mean the Southern Nevada Water Authority.
- 1.1.18 "SNWA Interstate Account" shall mean the Long-term Storage Credit Sub-account established by AWBA with ADWR pursuant to Subarticle 2.2.4 of the Original Agreement.
- 1.1.19 "Statutory Costs" means those costs specified in A.R.S. §§ 45-2471(C)(1) through (5), and (8) that are incurred by AWBA under Subarticle 2.1.1 after the Effective Date in connection with causing the crediting of Long-term Storage Credits in a gross amount of 1,250,000 acre-feet to the SNWA Interstate Account.
- 1.1.20 "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.
- 1.1.21 "Year" shall mean a calendar year.
- 1.2 Fundamental Principles of this Agreement
- 1.2.1 This Agreement is among AWBA and SNWA and CRCN. It is intended to create a program of interstate banking of Colorado River water. AWBA will not engage in interstate banking to the detriment of any water user in Arizona in fulfilling its obligations under this Agreement.
- 1.2.2 Under the terms of this Agreement, AWBA shall acquire and store mainstream Colorado River water in Arizona and cause Long-term Storage Credits to be credited and held in the SNWA Interstate Account. AWBA shall utilize the Long-term Storage Credits at a later date to develop ICUA. The Secretary is required to release this ICUA for consumptive use within the State of Nevada pursuant to the Storage and Interstate Release Agreement entered into by the Secretary under the regulations adopted by the Secretary in 43 CFR Part 414. This Agreement is one part of a three part contractual relationship, which also includes the Storage and Interstate Release Agreement (SIRA) and an Agreement for the Development of Intentionally Created Unused Apportionment. In furtherance of its performance under this Agreement, the AWBA has also entered into an Intergovernmental Agreement among AWBA, CAWCD, and ADWR, as amended, and a series of water storage agreements between AWBA and Storage Facility operators in the State of Arizona.
- 1.2.3 This Agreement shall govern the relative rights and responsibilities of AWBA, SNWA and CRCN for the delivery, storage and recovery of Colorado

River water in Arizona and for the development of ICUA. No ownership rights in specific storage facilities shall accrue to either SNWA or CRCN by this Agreement. Neither SNWA nor CRCN shall have any rights in this interstate banking arrangement except as provided in this Agreement.

1.2.4 AWBA shall recognize priorities or preferences for the storage and recovery of water in Arizona established by the Agreement Relating to Implementation of Interim Colorado River Surplus Guidelines between SNWA and The Metropolitan Water District of Southern California, dated May 16, 2002.

1.2.5 This Agreement is intended to operate for the mutual benefit of the citizens of the State of Arizona and the citizens of the State of Nevada. It is entered into with the understanding that it is an act of comity, and with the understanding that interstate banking of Colorado River water among the States of the Lower Division must be undertaken in accordance with express authority granted under each state's law.

1.3 Term of Agreement

This Agreement becomes effective when executed by all Parties. This Agreement shall terminate when all of the Long-term Storage Credits specified in Subarticle 2.1.1 have been credited to the SNWA Interstate Account and all such credits have subsequently been recovered, or on June 1, 2060, whichever is sooner. Any Long-term Storage Credits remaining in the SNWA Interstate Account at the termination of this Agreement shall revert to the sole and exclusive benefit of AWBA, unless this Agreement is extended by written agreement of all Parties.

ARTICLE 2

DELIVERY AND STORAGE

2.1 Crediting Long-term Storage Credits for SNWA; Annual Plan of Operation

2.1.1 AWBA shall take all actions necessary to ensure that Long-term Storage Credits in a gross amount of 1,250,000 acre-feet, including the Long-term Storage Credits referenced in Recital G, are credited to the SNWA Interstate Account in sufficient time both to meet the requirements of Subarticle 2.1.3 and to allow the recovery of the full 1,250,000 acre-feet of such credits for the purpose of developing ICUA for SNWA within the term of this Agreement and the limitations of Subarticle 3.1.1. Such actions may include storage of Colorado River water, assignment of existing Long-term Storage Credits, or any other actions that will support the development of ICUA under this Agreement consistent with 43 C.F.R. Part 414 and the SIRA.

2.1.2 AWBA shall ensure that there are in effect in a timely manner all regulatory permits and approvals and all third-party agreements necessary to enable

AWBA to meet its obligations under this Subarticle, including without limitation agreements for the purchase and delivery of Colorado River water, necessary water storage permits from ADWR, and agreements with Storage Facility operators.

- 2.1.3 The actions that AWBA takes to cause Long-term Storage Credits to be credited to the SNWA Interstate Account under Subarticle 2.1.1 shall be on a schedule that will ensure that there are Long-term Storage Credits in the SNWA Interstate Account as of the June 1 preceding each Year in which SNWA has the right to require the development of ICUA in an amount at least sufficient to support development of the maximum ICUA permitted under Subarticle 3.1 during that Year, without regard to whether SNWA has requested such maximum.
- 2.1.4 The amount of water to be stored during any Year shall be identified in the final AWBA Plan of Operation by January 1 of each Year.
- 2.2 Delivery and Storage of Water by AWBA for SNWA. Delivery and storage of any water under the terms of this Agreement shall be subject to the following requirements:
 - 2.2.1 The delivery of water to storage shall be pursuant to the Agreement between CAWCD and the AWBA Providing for the Delivery of Excess CAP Water, whereby AWBA is entitled to purchase Excess CAP Water from CAWCD for interstate banking purposes.
 - 2.2.2 AWBA shall obtain and maintain all necessary water storage permits from ADWR to allow storage under the terms of this Agreement.
 - 2.2.3 The storage of water shall be pursuant to AWBA's agreements with various Storage Facility operators whereby AWBA is entitled to store water at those various Storage Facilities.
 - 2.2.4 AWBA agrees that the storage of water under this Agreement shall take into account the location, manner and cost of storing all water stored by AWBA in the State of Arizona. AWBA agrees that the selection of storage facilities for water stored under this Agreement and for others in Arizona shall not be made in a manner that unreasonably allocates the higher storage cost to the storage of water under this Agreement.
- 2.3 SNWA Interstate Account
 - 2.3.1 AWBA shall monitor the crediting and maintenance of Long-term Storage Credits in the SNWA Interstate Account from Year to Year. AWBA shall exercise due diligence in insuring that all Long-term Storage Credits credited through storage for SNWA or transferred or otherwise credited to the SNWA Interstate Account are properly accounted for in such account.

2.3.2 AWBA shall timely file with ADWR an annual report for all water delivered and stored in accordance with the terms of this Agreement by March 31 of the Year following the delivery and storage. AWBA and SNWA and CRCN shall cooperate in the preparation of such report, and shall agree upon the accuracy of the data to be filed. ADWR determines the amount of Long-term Storage Credits that are credited to the SNWA Interstate Account in any Year and makes a report available to AWBA detailing the credits available in AWBA's Long-term Storage Account. Upon receipt of the report from ADWR, AWBA shall make that report available to SNWA and CRCN. The report may include adjustments or corrections made by ADWR to the Long-term Storage Credits in the SNWA Interstate Account.

2.4 Payments by SNWA

2.4.1 In consideration of AWBA's obligations under this Article 2, and in particular its obligation to ensure that Long-term Storage Credits in a gross amount of 1,250,000 acre-feet are credited to the SNWA Interstate Account, SNWA shall make payments to AWBA aggregating \$330,000,000.00, such payments to be made by SNWA as specified in Subarticles 2.4.1.1 and 2.4.1.2.

2.4.1.1 SNWA shall make a payment of \$100,000,000.00 within 10 working days of the request by AWBA for such payment made after the Effective Date, which shall be deposited into a Resource Account, which shall be established by the AWBA. SNWA shall have no authority as to the use of the Resource Account.

2.4.1.2 SNWA shall make ten payments of \$23,000,000.00 each by January 10 of each Year commencing in 2009 and ending in 2018, which shall be deposited into an interest-bearing Operating Account, which shall be established by the AWBA and used by the AWBA only in connection with deposits of SNWA payments under this Subarticle, payment of Statutory Costs, and loan transactions involving the Resource Account under Subarticle 2.4.1.3. Interest earned on the Operating Account shall accrue to that account for use in accordance with this Agreement.

2.4.1.3 AWBA may, at its sole discretion, loan funds from the Resource Account to the Operating Account, for the purpose of fulfilling its obligations under this Agreement, but any loaned funds must be repaid from the Operating Account to the Resource Account, with interest, no later than June 10, 2018. For purposes of this paragraph, interest each Year shall be computed based on the average rate of return on the Operating Account for that Year.

- 2.4.2 The provisions of this Subarticle 2.4.2 shall apply for purposes of ensuring that payments by SNWA under this Agreement meet the requirements of A.R.S. § 45-2471(C).
- 2.4.2.1 The Parties acknowledge that payments made by SNWA to AWBA prior to the Effective Date cover at least all costs specified in A.R.S. §§ 45-2471(C)(7) with respect to those Long-term Storage Credits referenced in Recital G(2).
- 2.4.2.2 The Parties further acknowledge AWBA's conclusion that, other than those costs for which SNWA will reimburse AWBA under Subarticle 2.4.3, the payments to be made by SNWA under Subarticle 2.4.1 will be sufficient to reimburse AWBA for all capital, operation, maintenance, energy, payment in lieu of property taxes, storage, contract, permitting, and other costs that it will incur under this Article 2 after the Effective Date, subject to the adjustment provisions of Subarticles 2.4.2.5 and 2.4.2.6. Such reimbursed costs include, without limitation, (1) any costs associated with ensuring that AWBA is able to perform its obligations under Subarticle 2.1.1, and (2) all Statutory Costs incurred by AWBA.
- 2.4.2.3 The Parties further acknowledge that, for purposes of A.R.S. § 45-2471(C)(1), AWBA's cost of acquiring Colorado River water is the cost charged by the United States to CAWCD under CAWCD's federal water delivery contract for delivering such water.
- 2.4.2.4 By June 30 of each Year AWBA shall provide an annual accounting to SNWA for the period from the Effective Date through December 31 of the prior Year showing (1) all transactions involving the Operating Account during the preceding Year, including loans from the Resource Account, payments to the Resource Account of principle and interest on such loans, and a detailed statement of all Statutory Costs incurred by AWBA, and (2) a summary by Year of all Statutory Costs incurred by AWBA in prior Years.
- 2.4.2.5 If the annual accounting under Subarticle 2.4.2.4 indicates that there are insufficient funds in the Operating Account to complete the accrual of 1,250,000 acre-feet of Long-term Storage Credits for crediting to the SNWA Interstate Account, then the parties shall meet and confer regarding the accrual of additional Long-term Storage Credits by AWBA and the payment of additional funds by SNWA. At its sole discretion SNWA may reduce AWBA obligation to develop 1,250,000 acre-feet of Long-term Storage Credits for the SNWA Interstate Account. If SNWA determines

not to reduce AWBA obligation to develop 1,250,000 acre-feet of Long-term Storage Credits for the SNWA Interstate Account, SNWA shall pay all additional Statutory Costs required to complete the accrual of 1,250,000 acre-feet of Long-term Storage Credits.

- 2.4.2.6 By June 30 of the Year after the Year in which an aggregate of 1,250,000 acre-feet of Long-term Storage Credits have been credited to the SNWA Interstate Account and all loans from the Resource Account to the Operating Account have been repaid, with interest, AWBA shall pay to SNWA any remaining balance in the Operating Account established pursuant to Subarticle 2.4.1.2 and no additional payments shall be made by SNWA.
- 2.4.3 SNWA shall pay a fee equivalent to the approximate amount of administrative, legal, and technical expenses incurred for AWBA's services under this entire Agreement. Such fee shall equal 15% of ADWR's cost of such services as provided to and accepted by AWBA annually. ADWR's cost of services is computed as a lump sum for the fiscal year beginning July 1 and includes salaries, employee related expenses, and indirect costs.
- 2.4.4 The fee for administrative services as described in Subarticle 2.4.3 shall be paid on a quarterly basis. Unless otherwise agreed in advance, each quarterly payment shall be an equal one-fourth of the administrative charge for the fiscal year. AWBA shall provide an invoice for one quarter of the annual administration charge to SNWA on or before the 15th day of June, September, December and March for the quarter immediately following. If such day is not a business day, the invoice shall be made on the next succeeding business day.
- 2.4.5 SNWA shall pay the administrative service fees on or before the first day of the month following the notice of the fees. If such day is not a business day, the payment shall be made on the next succeeding business day.

ARTICLE 3

DEVELOPMENT OF INTENTIONALLY CREATED UNUSED APPORTIONMENT

- 3.1 Extent of Annual Development of ICUA for SNWA
 - 3.1.1 SNWA shall have the right to require the recovery of Long-term Storage Credits in the SNWA Interstate Account and the development of ICUA in any Year, as follows:
 - 3.1.1.1 The initial year request for ICUA shall not exceed 20,000 acre-feet, the second year request for ICUA shall not exceed 30,000

acre-feet and any request for ICUA thereafter shall not exceed 40,000 acre-feet.

3.1.2 During any Year as to which the Secretary has determined under Article II(B)(3) of the Consolidated Decree that a shortage condition exists, SNWA may require the development of ICUA (1) in such amount that, when considered together with the amount of basic apportionment available for use in Nevada, will allow 300,000 acre-feet to be consumptively used in Nevada, plus (2) the amount specified for such Year in Subarticle 3.1.1. SNWA may require the development of ICUA under this Subarticle only if after consultation with SNWA, the AWBA has determined that sufficient recovery facilities are in place for that Year to meet the needs of CAP M&I subcontractors and any post 1968 domestic use Colorado River contractor in Arizona and SNWA. If it is determined that sufficient recovery facilities are not available, SNWA may require the development of ICUA only to the extent that SNWA has contributed to new facilities in Subarticle 3.4.2.1 or additional facilities in Subarticle 3.5.1 plus any available existing recovery capacity not utilized by the CAP M&I subcontractors and post 1968 domestic use Colorado River contractors.

3.1.2.1 If a shortage determination by the Secretary under Article II(B)(3) of the Consolidated Decree causes a reduction in the Colorado River water available for use by non-Indian municipal and industrial (M&I) CAP subcontractors in any Year under their subcontracts or any other post 1968 domestic use Colorado River contractor in any Year under their contract, SNWA's right to require the recovery of Long-term Storage Credits and the development of ICUA shall be reduced proportionately to the reduction in M&I water supply sustained by CAP subcontractors and any other post 1968 domestic use contractor.

3.2 SNWA Notices for Development of ICUA

3.2.1 For any Year in which SNWA will require the development of ICUA by AWBA and the release of ICUA by the Secretary, SNWA shall confer with the AWBA prior to June 1 of the preceding Year and provide notice of the amount of such ICUA to AWBA by June 1 of the preceding Year.

3.2.2 Between June 1 and September 15 of the Year in which a notice has been given under Subarticle 3.2.1, AWBA staff shall meet and confer with SNWA concerning the proposed location, manner and estimated cost of the development of the specified ICUA.

3.2.3 On or before September 15 of the Year in which a notice for the development of ICUA has been given to AWBA under Subarticle 3.2.1, or as otherwise required by the Secretary, SNWA shall make a request of the Secretary for the

release of such ICUA during the following Year and shall provide a copy of such notice to AWBA.

3.3 Development of ICUA

3.3.1 Upon receipt of a notice under Subarticle 3.2.1 for the development of ICUA, AWBA shall meet and confer with CAWCD to develop an Interstate Recovery Schedule under the terms of the Agreement for the Development of Intentionally Created Unused Apportionment. The Interstate Recovery Schedule shall utilize the recovery of Long-term Storage Credits to develop the ICUA through recovery methods identified in the corresponding Storage and Interstate Release Agreement. These methods include recovery and exchange of Long-term Storage Credits for Colorado River water and/or credit exchange of Long-term Storage Credits for Colorado River water that would have otherwise been delivered for underground storage in that Year.

3.3.1.1 AWBA shall meet and confer with SNWA concerning the location, manner and cost of recovery when developing the Interstate Recovery Schedule.

3.3.1.2 AWBA agrees that the development of the Interstate Recovery Schedule shall take into account the location, manner and cost of recovering all water stored by AWBA in the State of Arizona. AWBA agrees that the selection of recovery facilities included in the Interstate Recovery Schedule shall not be made in a manner that unreasonably allocates the higher recovery cost to the recovery of water for the development of ICUA under the terms of this Agreement.

3.3.1.3 Factors to be considered when preparing the Interstate Recovery Schedule shall include but are not limited to:

3.3.1.3.1 Arizona water management goals,

3.3.1.3.2 CAP operational requirements,

3.3.1.3.3 Water quality requirements,

3.3.1.3.4 Opportunities for shared or joint facilities, and

3.3.1.3.5 Opportunities to reduce recovery costs.

3.3.2 Upon receipt of a copy of SNWA's request under Subarticle 3.2.3 to the Secretary for the release of ICUA during the following Year, AWBA shall prepare the following certifications, in accordance with the Agreement for the Development of Intentionally Created Unused Apportionment: (1) an

Upcoming Year Delivery Certification; (2) an Interstate Recovery Schedule Certification; and, (3) a Development of ICUA Certification. These three certifications shall be prepared and delivered to the Bureau of Reclamation no later than December 1 of the Year in which a notice for the development of ICUA was given to AWBA under Subarticle 3.2.1. AWBA shall identify the amount of ICUA specified to be developed in SNWA's notice under Subarticle 3.2.1 in the AWBA Plan of Operation for the following Year, and in such Year shall recover Long-term Storage Credits and develop ICUA in such amount, subject to the Secretary's determination and release of ICUA under Subarticles 5.4 and 5.5 of the SIRA. Recovery shall not commence until verification by the Secretary that ICUA will be released to SNWA under the terms of the Storage and Interstate Release Agreement.

- 3.3.3 The choice of facilities utilized to recover the Long-term Storage Credits used to develop the ICUA during any year shall be at the discretion of AWBA.
- 3.3.4 After the Secretary's notice of determination pursuant to Subarticle 5.4 of the SIRA respecting the availability and release of ICUA, AWBA shall recover Long-term Storage Credits and cause ICUA to be developed in the amount specified in the Secretary's notice. SNWA shall be responsible for all costs of developing the specified ICUA as provided in this Agreement.
- 3.3.5 Upon written request by SNWA to cease the development of ICUA, AWBA shall cease the development of ICUA by the amount of the request or by the amount of verified ICUA not yet developed, whichever is less. AWBA shall certify to the Secretary the amount of ICUA previously requested that will not be developed and shall request that the Secretary act in accordance with that certification and the terms of the Storage and Interstate Release Agreement.
- 3.3.6 AWBA shall notify ADWR of the actual amount of credits recovered in accordance with the terms of this Agreement and shall request that ADWR debit the SNWA Interstate Account by the amount of credits recovered when AWBA submits its annual report to ADWR. AWBA and SNWA shall cooperate in the preparation of such report, and shall agree upon the accuracy of the data to be filed.

3.4 Charges for Developing ICUA

- 3.4.1 SNWA agrees that, except as provided in Subarticle 3.4.3, all costs of the development of ICUA as described in Subarticle 3.3 shall be borne by SNWA. Such costs shall be calculated and charged to SNWA in accordance with this Subarticle 3.4, and billed to and paid by SNWA as provided in Subarticle 3.5.

- 3.4.2 The charges to SNWA for the cost of ICUA caused to be developed by AWBA under this Agreement shall consist of the following pricing components:
- 3.4.2.1 A capital component consisting of (1) the cost to develop any new recovery facility as to which the SNWA shall have a prior right of use, such cost to be paid in advance in a lump sum, or (2) a charge computed on a per acre-foot of ICUA developed basis to recover SNWA's proportionate share of the annual capital cost of other recovery facilities to be used for SNWA's benefit during the Year.
 - 3.4.2.2 An operation and maintenance (O&M) component computed on a per acre-foot of ICUA developed basis to recover SNWA's proportionate share of the O&M cost (including pumping energy) incurred by the owner/operator of any recovery facility used during the Year to develop ICUA for SNWA.
 - 3.4.2.3 An administrative component calculated as a lump sum to recover the actual administrative cost reasonably incurred by AWBA.
 - 3.4.2.4 In the event that the cost of recovery for all or some of the water stored by AWBA in the State of Arizona increases due to unforeseen circumstances such as a cost for water treatment, or new state or federal regulations such as new water quality standards or additional environmental compliance requirements, SNWA agrees to share a reasonable proportion of such unanticipated costs, regardless of the location of such storage.
- 3.4.3 SNWA shall specify in its notice given under Subarticle 3.2.1 if, and the extent to which, ICUA is to be developed through the recovery of Long-term Storage Credits previously held by CAWCD for the benefit of SNWA under its October 15, 1992 agreement with The Metropolitan Water District of Southern California. The Parties acknowledge that pursuant to the terms of such agreement and prior to the effective date of the Original Agreement, SNWA made advance payments of the entire cost to recover such credits and to develop such ICUA.

3.5 Billing and Payment for Developing ICUA

- 3.5.1 AWBA shall notify SNWA of any charges for the development of recovery facilities as described in Subarticle 3.4.2.1(2) after agreement between AWBA and SNWA that additional recovery facilities are required for the development of the certified ICUA.
- 3.5.2 SNWA shall agree to an acceptable repayment schedule for costs specified in AWBA's Subarticle 3.5.1 notice prior to the construction of any additional

recovery facilities. Following receipt of the SNWA payments pursuant to that schedule, AWBA shall remit the appropriate payments to the appropriate recovery facility owner/operators in accordance with AWBA's contractual agreements with those operators.

- 3.5.3 AWBA shall provide an estimate of the charges for any capital component described in Subarticle 3.4.2.1(2) and the recovery facility O&M described in Subarticle 3.4.2.2 to SNWA on or before the fifteenth of each month prior to the actual recovery. Such estimates may include adjustments or corrections to previous estimates.
- 3.5.4 SNWA shall pay the estimate of the capital component described in Subarticle 3.4.2.1(2) and the recovery facility O&M charge described in Subarticle 3.4.2.2 on or before the tenth day of the month following receipt of the estimate. If such day is not a business day, the payment shall be made on the next succeeding business day. Following receipt of the SNWA payment, AWBA shall remit the appropriate payment to the appropriate recovery facility operators in accordance with AWBA's contractual agreements with those operators.
- 3.5.5 No later than March 15 of the Year following the Year in which ICUA was recovered under the terms of this Agreement, AWBA shall provide SNWA and CRCN a Year end account reconciliation showing the actual Long-term Storage Credits recovered and whether charges for recovering the credits exceed payments made or payments exceed the amount owed. If additional funds are owed to AWBA by SNWA, they shall be paid within 10 business days of the date notice is provided by AWBA. If funds are due to SNWA, they shall be applied to SNWA's current Year recovery facility O&M charge and used to offset current payments in an amount equal to the excess payment. If no recovery under the terms of this Agreement is included in the AWBA Plan of Operation for the current Year, the funds shall be carried over and used to offset the recovery facility O&M charge for the Year in which recovery resumes. If recovery has not resumed within three years, AWBA shall remit the remaining funds to SNWA.
- 3.5.6 Charges for administrative services as described in Subarticle 3.4.2.3 shall be paid on a quarterly basis. Unless otherwise agreed in advance, each quarterly payment shall be an equal one-fourth of the administrative charge agreed upon for the fiscal year. AWBA shall provide an invoice for one quarter of the annual administration charge to SNWA on or before the 15th day of June, September, December and March for the quarter immediately following. If such day is not a business day, the invoice shall be made on the next succeeding business day.

- 3.5.7 SNWA shall pay administrative charges on or before the first day of the month following the receipt of the notice. If such day is not a business day, the payment shall be made on the next succeeding business day.

ARTICLE 4

DELINQUENT CHARGES AND SURETY OF PERFORMANCE

4.1 Delinquency Charges under the Terms of this Agreement

- 4.1.1 All payments due under this Agreement shall be paid promptly on the date required and, if not paid, shall be delinquent. Interest on delinquent payments may be assessed from the business day of the month on which the charge was due and shall accrue at the prime rate of interest as established by the Bank of America, plus 6% per annum, prorated by days of the unpaid principal, computed daily until payment is received. Any payment received shall first be applied to any interest owed, and then to any charges owed.
- 4.1.2 In the event any portion of the charges is disputed, the disputed amount shall be paid when due, but may be accompanied by a written statement indicating the basis for any dispute. If the dispute is found to be valid, SNWA shall be refunded any overpayment plus interest, accrued at the rate set forth in Subarticle 4.1.1, prorated by days from the date payment was credited to SNWA to the date the refund check is issued.
- 4.1.3 In the event any delinquent amount is not paid by SNWA within thirty (30) days after receipt by SNWA of written notice from AWBA of the delinquency, AWBA shall have the right, without liability of any kind, to suspend recovery of any water under the terms of this Agreement so long as the delinquent amount remains unpaid. Such suspension shall not affect the Long-term Storage Credits remaining in the SNWA Interstate Account. Nothing herein shall limit the rights of AWBA to use any other available legal remedy to effect collection of delinquent amounts.

4.2 Surety of Performance under the Terms of this Agreement

- 4.2.1 In the event that a dispute arises over any action to be undertaken pursuant to the terms of this Agreement, all parties recognize and acknowledge that time is of the absolute essence in the conduct of the parties under the terms of this Agreement.
- 4.2.2 The parties agree that the water resources being stored, forborne, and made available through exchange for use by SNWA under the terms of this Agreement are unique and very likely cannot be replaced in a timely fashion

by other resources. Accordingly, the parties agree that in any dispute over the development and release of ICUA, SNWA will likely be requesting an injunction ordering specific performance of the terms of this Agreement. The parties agree that if AWBA opposes the specific enforcement of this Agreement with respect to ICUA, AWBA shall have the burden to show by clear and convincing evidence that it has the ability to, and will, make alternative water resources, other than water controlled by the United States under the Consolidated Decree, available at the SNWA system, free of adverse claims. If AWBA proposes to deliver such alternative water to SNWA, AWBA shall bear any additional costs that may be incurred over the costs that would have otherwise been incurred by SNWA for the delivery of ICUA under terms of this Agreement. SNWA shall be required to accept such alternative water resources if so ordered by a court of competent jurisdiction. Nothing in this Subarticle shall limit SNWA's rights to seek money damages or a remedy at law.

- 4.2.3 AWBA shall ensure that there are in effect all third party contracts necessary for the development of ICUA as provided in Article 3, the provisions of such contracts to be consistent with the provisions of this Agreement. AWBA shall insure that all such third party contracts are enforced in a manner consistent with the terms of this Agreement.

ARTICLE 5

OTHER PROVISIONS

5.1 Consultation on the AWBA Annual Report

- 5.1.1 AWBA is required to submit an annual report of its transactions and proceedings for the preceding year by July 1 each Year pursuant to A.R.S. § 45-2426. SNWA agree to confer with AWBA staff in the development of the report.

5.2 The terms established by Articles 2.4, 3.1, 3.2 and 3.5 may be changed upon written agreement of AWBA's authorized representative and the SNWA's General Manager.

5.3 Payment of federal charges relating to the Execution of a Storage and Interstate Release Agreement.

- 5.3.1 SNWA agrees that all federal charges associated with any amendment to the SIRA shall be borne by SNWA.
- 5.3.2 These charges shall be calculated by and paid directly to the Secretary by SNWA in accordance with the Secretary's requirements.

5.4 Successors to AWBA and SNWA

In the event that the AWBA should be dissolved or cease to perform any of the functions provided for in this Agreement, the rights and obligations of the AWBA shall be binding upon, and inure to the benefit of, any agency of the State of Arizona that succeeds to such functions or, in the absence of any such agency, the State of Arizona. In the event that the SNWA should be dissolved or cease to perform any of the functions provided for in this Agreement, the rights and obligations of the SNWA shall be binding upon, and inure to the benefit of, any successor joint powers agency or other legal subdivision of the State of Nevada that succeeds to such functions or, in the absence of any such agency, the members of the SNWA.

5.5 Uncontrollable Forces

No Party to this Agreement shall be considered in default in the performance of any of its obligations under the Agreement (other than the obligation of SNWA to make payment) 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, lighting, 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, any federal governmental agency or authority, which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require any Party to settle any strike or labor dispute in which it is involved.

5.6 Notices, Requests and Payments

5.6.1 All notices and other communications provided for in this Agreement shall be in writing and may be given in either of the following manners:

5.6.1.1 Notices and requests shall be in writing and maybe mailed first class postage paid to the parties at the following addresses:

AWBA: Arizona Water Banking Authority
3550 North Central Avenue
Phoenix, Arizona 85012
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: Executive Director

- 5.6.1.2 Notices and requests may be given by facsimile and shall be deemed complete upon 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.
- 5.6.2 All payments required under the terms of this Agreement shall be made by Electronic Fund Transfer (EFT).
 - 5.5.2.1 AWBA will notify the Treasury, State of Arizona monthly of any anticipated EFTs to be made by SNWA.
 - 5.5.2.2 SNWA will submit all EFTs to the Treasury, State of Arizona; account number 001-000985; routing number 122101706, or to such other destination as AWBA may designate by notice.
 - 5.5.2.3 AWBA will ensure that all EFTs submitted by SNWA are properly accrued in the Nevada sub-account maintained at ADWR.
- 5.7 On request, AWBA shall provide SNWA with a copy of all contracts, rate schedules, and other documents that are relevant to or that form the basis for the charges specified in the Agreement.
- 5.8 The parties to this Agreement are hereby notified of Arizona Revised Statutes section 38-511.
- 5.9 On reasonable advance written notice to AWBA and during normal business hours, SNWA shall have the right to inspect and audit all records of AWBA pertaining to (1) all Statutory Costs incurred by AWBA under Article 2 and (2) all costs incurred by AWBA under Article 3.
- 5.10 This Agreement is not intended to confer any rights on any person other than the Parties hereto, and it shall not be construed as a third-party beneficiary contract or as conferring third-party beneficiary status or rights of any nature on any person.

///

///

///

FINAL DRAFT

In Witness of this Agreement, the Parties affix their official signatures below.

SOUTHERN NEVADA WATER
AUTHORITY

DATE _____

Patricia Mulroy, General Manager

Approved as to form:

John J. Entsminger, Deputy General Counsel

COLORADO RIVER COMMISSION OF
NEVADA

DATE _____

George M. Caan, Executive Director

Approved as to form:

Jennifer Crandell, Senior Deputy Attorney General

ARIZONA WATER BANKING
AUTHORITY

DATE _____

Herbert R. Guenther, Chair

Attest:

Thomas Buschatzke, Secretary

Arizona Water Banking Authority

3550 N. Central Avenue, Phoenix, Arizona 85012

Telephone 602-771-8487

Fax 602-771-8685



April 2, 2009

Ms. Patricia Mulroy
General Manager
Southern Nevada Water Authority
1001 South Valley View Blvd.
Las Vegas, NV 89153

AUTHORITY MEMBERS

Herbert R. Guenther, Chairman

Maureen R. George, Vice-Chairman

Tom Buschatzke, Secretary

John Mawhinney

Lisa Atkins

EX OFFICIO MEMBERS

Honorable Robert Burns

Honorable Kirk Adams

RE: Modification to Payment Schedule of Interstate Water Banking Monies

Dear Ms. Mulroy:

As you know, under Subarticle 2.4 of the Second Amended Agreement for Interstate Water Banking (Agreement), the Southern Nevada Water Authority (SNWA) agreed to provide the Arizona Water Banking Authority (AWBA) the sum of \$23 million each year commencing in 2009 and ending in 2018. These monies were to be deposited in the Operating Account for the main purpose of paying the costs of water delivery and storage for interstate banking on behalf of Nevada. Furthermore, Subarticle 5.2 of the Agreement allows the flexibility to modify certain subarticles of the Agreement, including payment schedules, to accommodate changing circumstances. Modifications would occur following approval of both AWBA and SNWA.

SNWA's request earlier this year asked for flexibility in making future payments given both current fiscal conditions and that the AWBA's approved 2009 Plan of Operation did not include any water scheduled for interstate water banking. Since that request, the Central Arizona Water Conservation District (CAWCD) informed staff on March 4, 2009 of additional water supplies that would be available for storage by the AWBA. Yesterday, the AWBA Commission approved an Amended 2009 Plan of Operation (Amended Plan) that includes interstate deliveries and storage pursuant to the Agreement.

At this time, the interstate deliveries and storage identified in the Amended Plan does not require the full payment of \$23 million, however, a partial payment will be required. Partial payments requested in 2009 will not exceed \$23 million. The AWBA will notify the SNWA 30 days prior to any anticipated interstate delivery and storage. As water availability changes throughout the year, additional funds may be requested to take advantage of additional water storage opportunities currently not included in the Amended Plan.

Based on conversations with SNWA staff, this invoicing procedure appears to be acceptable to both parties. Yesterday, the AWBA Commission designated me as the Authorized Representative for the purpose of signing this letter agreement. Please indicate your acceptance of this modification to the 2009 payment specified in Subarticle 2.4 by signing below and providing a duplicate copy of this letter agreement for our files. Thank you.

Sincerely,

Herbert R. Guenther, Chairman
Authorized Representative, AWBA

cc: AWBA Authority Members
Ms. Kay Brothers, SNWA
Mr. George Caan, CRCN
Mr. David Modeer, CAWCD
Mr. Larry Dozier, CAWCD
Ms. Kim Mitchell, AWBA

By signing below I agree to the modification to the payment schedule specified in Subarticle 2.4.

Patricia Mulroy
General Manager, SNWA

Date

Long-term Storage Credits Accrued on Behalf of Nevada

	Year	Credits ¹ Earned	Cumulative Credits	Percent of Goal Achieved	Cost of Storage	Received from SNWA	Funds Available
				(1,250,000 AF)			
Actual	2002	61,098	61,098	5%	\$ 8,617,393	\$ 5,000,000	\$ -
	2003	50,000	111,098	9%	\$ -	\$ 3,723,945	\$ 106,552 ²
	2004	14,162	125,260	10%	\$ 2,899,647	\$ 1,330,000	\$ -
	2005	111,805	237,065	19%	\$ 25,723,366	\$ 100,000,000	\$ 72,813,539 ³
	2006	175,569	412,634	33%	\$ 35,386,306	\$ -	\$ 37,427,233
	2007	114,886	527,520	42%	\$ 21,853,906	\$ -	\$ 15,573,327
	2008	0	527,520	42%	\$ -	\$ -	\$ 15,573,327
Estimated	2009						
	1 st Quarter	0	527,520	42%	\$ -	\$ (4,825,012) ⁴	\$ 10,748,315
	Sub-total				\$ 94,480,618		
	2 nd Quarter	0	527,520	42%	\$ -	\$ -	\$ 10,748,315
	3 rd Quarter	8,017	535,537	43%	\$ 1,784,340	\$ -	\$ 8,963,975
	4 th Quarter	15,233	550,770	44%	\$ 3,390,660	\$ -	\$ 5,573,315
	Total	550,770		44%	\$ 99,655,618	\$ 105,228,933	\$ 5,573,315

¹ 2003 credits transferred from CAWCD pursuant to Amended Agreement for Interstate Water Banking. Credits for 2008 are estimated.

² Includes expenditure of \$3,617,393 from monies collected in 2003 as part 2002 reconciliation.

³ Includes expenditure of \$1,463,095 from monies collected in 2005 as part of 2004 reconciliation.

⁴ Funds required from the \$100 million originally provided from Nevada pursuant to S.B.1001.

AGREEMENT BETWEEN
THE ARIZONA WATER BANKING AUTHORITY
AND THE CITY OF TUCSON PROVIDING FOR THE
STORAGE OF CENTRAL ARIZONA PROJECT WATER AT
THE CENTRAL AVRA VALLEY STORAGE AND RECOVERY PROJECT AND THE
SOUTHERN AVRA VALLEY STORAGE AND RECOVERY PROJECT

1. Preamble

The Parties to this Agreement made and entered into this _____ day of _____, 2009, are the ARIZONA WATER BANKING AUTHORITY (the "Authority"), and the CITY OF TUCSON, TUCSON WATER ("Tucson").

2. Explanatory Recitals

WITNESSETH, THAT:

- 2.1. WHEREAS, the Colorado River Basin Project Act of 1968 (82 Stat. 885) provides, among other things, that for the purposes of furnishing irrigation and municipal and industrial water supplies to water deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary shall construct, operate, and maintain the Central Arizona Project, hereinafter referred to as the "Project"; and
- 2.2. WHEREAS, the Arizona Legislature has declared that it is the public policy of the State of Arizona to use the Project to deliver Colorado River water that would otherwise be unused in Arizona for purposes specified in A.R.S. § 45-2401; and
- 2.3. WHEREAS, the Arizona Legislature has created the Authority to implement this policy and has specifically authorized the Authority, in A.R.S. § 45-2423(B)(3), to execute agreements with the Central Arizona Water Conservation District ("CAWCD") to obtain water for storage at permitted facilities; and
- 2.4. WHEREAS, CAWCD and the Authority, have entered into an agreement for the delivery of excess CAP water (Excess Water Contract) providing for the

DRAFT 2/17/09

purchase and delivery of Excess Water to the Authority for water storage;
and

- 2.5. WHEREAS, Tucson has agreed to store Authority Water on behalf of the Authority at the Central Avra Valley Storage and Recovery Project and the Southern Avra Valley Storage and Recovery Project;

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

3. Definitions

- 3.1. "Authority Water" shall mean Excess Water made available by CAWCD to the Authority for Water Storage, which water would not otherwise have been used within Arizona.
- 3.2. "CAVSARP" shall mean the Underground Storage Facility operated by Tucson pursuant to Underground Storage Facility Permit, No. 71-578806, and any amendments thereafter, and located in Section 31, Township 13 South, Range 11 East and Sections 5, 6 and 8, Township 14 South, Range 11 East, GSRB&M.
- 3.3. "SAVSARP" shall mean the Underground Storage Facility operated by Tucson pursuant to Underground Storage Facility Permit, No. 71-211276, and any amendments thereafter, and located in Sections 22, 27, 28, 29, 32, 33 and 34, Township 14 South, Range 11 East, GSRB&M.
- 3.4. "Clearwater" shall refer to either or both of "CAVSARP" and "SAVSARP".
- 3.5. "Excess Water" shall mean Project water which, in any year, is available for delivery and has not been scheduled for delivery pursuant to a contract with the United States or a subcontract with the United States and CAWCD providing for Project Water service for a period of 50 years or more.
- 3.6. "Party or Parties" shall mean either one or, in the plural, both of the parties to this Agreement.
- 3.7. "CAVSARP Point(s) of Delivery" shall mean the point(s) at which Authority Water is diverted into the CAVSARP basins for the Authority and measured

DRAFT 2/17/09

at the flow meter(s) represented on the attached Appendix A.

3.8. "SAVSARP Point(s) of Delivery" shall mean the point at which Authority Water is diverted into the SAVSARP basins for the Authority and measured at the flow meter(s) represented on the attached Appendix B.

3.9. "Clearwater Point(s) of Delivery" shall mean the points at which Authority Water is diverted from the Project canal for delivery to Clearwater.

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

3.11. "Effective Date" shall mean the date that the Parties enter into this Agreement.

4. Scope of Services

This Agreement is limited to: (i) Tucson taking delivery of Authority Water at the Clearwater Point(s) of Delivery; (ii) Tucson transporting the Authority Water to Clearwater; and (iii) storage of Authority Water by Tucson at Clearwater for the benefit of the Authority.

5. Term

5.1. This Agreement shall terminate on December 31, 2027 unless the Parties agree in writing to extend the term or unless it is sooner terminated or canceled in accordance with Subarticle 11.4 or Articles 16, 21, 28 and 29 hereof.

5.2. Notwithstanding the conditions of 5.1, the parties may conduct interim reviews of this Agreement every five (5) years from the Effective Date of this Agreement to respond to changing circumstances.

6. Authorized Representatives

Within thirty (30) days after execution of this Agreement, each Party shall designate in writing to the other Party an authorized representative and an alternate to administer, on behalf of the designating Party, the provisions of Article 8. Written notice of a change of an AR or alternate shall be provided within thirty (30) days of such change. The alternate shall act only in the absence of the authorized representatives. Neither the authorized representatives nor the alternates shall

DRAFT 2/17/09

have authority to amend this Agreement. Agreements of the authorized representatives or alternates pursuant to this Agreement shall be in writing, signed by them and be binding upon the Parties.

7. Conditions Relating to Storage

The storage of water under this Agreement is conditioned on the following:

7.1. All storage of Authority Water shall be consistent with Arizona water law and with federal law applicable to the Projects.

7.2. Authority Water made available pursuant to this Agreement shall be stored by Tucson only at Clearwater. Tucson shall be responsible for all expenses and administrative requirements, including filing annual reports with the Arizona Department of Water Resources ("ADWR"), associated with maintaining the CAVSARP and SAVSARP permits. Tucson's storage of Authority Water at Clearwater shall at all times comply with Underground Storage Facility Permits, No. 71-578806 and No. 71-211276. If either of the Underground Storage Facility Permits, No. 71-578806 or No. 71-211276, are canceled or expire for any reason, the Authority may discontinue deliveries of Authority Water to that facility.

7.3. The AWBA has been issued water storage permits from ADWR for CAVSARP, permit number 73-578806.0201, and SAVSARP, permit number 73-211276.0200, authorizing the AWBA to store water at the two facilities. The AWBA shall be responsible for all fees, annual reports, and compliance requirements associated with its water storage permits.

8. Procedure for Scheduling Authority Water

8.1 On or before September 1 of each year, Tucson shall submit to the Authority in writing the amount of capacity available to the Authority at Clearwater during each month of the following year.

8.2 On or before November 15 of each year, the Authority shall submit in writing to Tucson a proposed schedule indicating the amount of Authority Water

desired by the Authority to be stored at Clearwater during each month of the following year.

- 8.3. ~~On or before December 15 of each year, Tucson shall return to the Authority~~ **Upon final approval by Tucson and by the Authority,** the schedule, ~~as adjusted by and acceptable to Tucson, for the following year. Such schedule shall constitute the maximum amount of Authority Water to be stored at Clearwater during each month of that year, subject to modification pursuant to Subarticle 8.4.~~
- 8.4. The Authority may increase or decrease its monthly schedule. ~~upon written approval by Tucson. Unless otherwise agreed by the Parties, the Authority shall submit proposed modifications to its schedule to Tucson not less than 15 days before the desired change is to become effective. Tucson shall accept the Authority's timely request to decrease its schedule, and shall revise the schedule to reflect the decrease. Tucson will review the Authority's timely request to increase its schedule, and Tucson will make any necessary adjustment to that request. Tucson will notify the Authority in writing of Tucson's action concerning the Authority's request to increase its schedule within 10 days of receipt of such request.~~ **Unless otherwise agreed by the Parties, the Authority shall submit proposed modifications to its schedule to Tucson not less than 15 days before the desired change is to become effective.** The schedule shall be revised to reflect changes made pursuant to this paragraph.
- 8.5. The Authority shall authorize Tucson to order Authority Water for delivery to the Clearwater Point(s) of Delivery directly from CAWCD in accordance with CAWCD water ordering procedures and limits to be established by the authorized representatives. Authority Water ordered by Tucson shall not exceed the amounts provided for in the monthly schedule or in the then-current plan of operation of the Authority, unless expressly approved by the Authority.

DRAFT 2/17/09

8.6. Except as otherwise provided in this Agreement, Tucson shall store at Clearwater all Authority Water scheduled for storage in accordance with this Article 8.

9. Clearwater Operations

9.1. Tucson as the operator of Clearwater shall have the sole discretion in determining whether a curtailment or stoppage of water flows to Clearwater is made necessary by circumstances existing at any time, and shall assume no liability to the Authority for such curtailment or stoppage.

9.2. Tucson shall retain sole responsibility and authority for decisions, relating to the Clearwater operating and maintenance practices, including maintenance scheduling and the selection of periods when maintenance will be done.

9.3. Whenever practicable, Tucson shall inform the Authority ninety (90) days in advance of any matter which may substantially affect Clearwater or the rights of the Authority and of any actions to be taken by Tucson related thereto.

10. Clearwater Rates

10.1 The water storage fee for any water stored by Tucson on behalf of the Authority in 2009 and 2010 is \$14.30 for each acre-foot of water delivered to the Clearwater Point(s) of Delivery.

10.2 For each subsequent year the rate specified in Subarticle 10.1 shall increase by 3%.

10.3 If mutually agreed to by both Parties, the water storage fee may otherwise be adjusted in response to changing storage conditions, unforeseen operational cost changes at Clearwater, or any other relevant regional factors or influences which would justify such fee adjustment.

11. Billing and Payment

11.1. Bills for water storage at Clearwater shall be submitted by Tucson to the Authority on or before the thirtieth (30th) day of each month (or if such day is not a business day, on the next succeeding business day) immediately

DRAFT 2/17/09

following the month during which the Authority has incurred charges for such services. Such bills may include adjustments or corrections to bills previously submitted by Tucson to the Authority.

- 11.2. Payment by the Authority to Tucson shall be made in good funds on or before the thirtieth (30th) day following the billing date. Bills that are not paid by this date shall be delinquent and thereafter accrue an interest charge at the rate of interest charged on City of Tucson invoices. This rate is currently 10% per annum, but is subject to change based upon review by the City of Tucson Finance Department.
- 11.3. In the event any portion of any bill is disputed, the disputed amount shall be paid when due, but may be accompanied by a written statement indicating the basis for any dispute. If the dispute is found to be valid, the Authority shall be refunded any overpayment plus interest, accrued at the rate set forth in Subarticle 11.2, prorated by days from the date payment was credited to the Authority to the date the refund check is mailed.
- 11.4. In the event any delinquent amount is not paid by the Authority within thirty (30) days after receipt by the Authority of written notice from Tucson of the delinquency, Tucson shall have the right, without liability of any kind, to refuse to store Authority Water so long as the said amount remains unpaid, and may terminate this Agreement. Nothing herein shall limit the rights of Tucson to use any other available legal remedy to effect collection of said amounts.

12. CAVSARP Water Measurement and Accounting

- 12.1. Tucson will provide daily water accounting of Authority Water stored at CAVSARP. Such water accounting shall be retained by Tucson for at least three (3) years and be made available for the Authority's inspection upon request.

DRAFT 2/17/09

12.2. Tucson shall prepare a monthly water accounting report based on the daily water accounting provided under Subarticle 12.1. Such water accounting report may be combined with other reports provided by Tucson to the Authority and shall include Authority Water delivered to the CAVSARP Point(s) of Delivery and Authority Water stored at CAVSARP during that month.

12.3. Tucson shall base its accounting for water delivered on:

12.3.1. actual measurements;

12.3.2. methods required by Underground Storage Facility Permit No. 71-578806; and/or

12.3.3. generally accepted accounting and engineering practices.

12.4. Tucson shall determine evaporation losses representative of the conditions at or near the CAVSARP using the method indicated in Underground Storage Facility Permit No. 71-578806, or using actual measurement, when available. Any other losses in the CAVSARP shall be calculated using generally accepted engineering practices.

13. SAVSARP Water Measurement and Accounting

13.1. Tucson will provide daily water accounting of Authority Water stored at the SAVSARP. Such water accounting shall be retained by Tucson for at least three (3) years and be made available for the Authority's inspection upon request.

13.2. Tucson shall prepare a monthly water accounting report based on the daily water accounting provided under Subarticle 13.1. Such water accounting report may be combined with other reports provided by Tucson to the Authority and shall include Authority Water delivered to the Point(s) of Delivery and Authority Water stored at the SAVSARP during that month.

13.3. Tucson shall base its accounting for water delivered on:

13.3.1. actual measurements;

DRAFT 2/17/09

13.3.2. methods required by Underground Storage Facility Permit No. 71-211276; and/or

13.3.3. generally accepted accounting and engineering practices.

13.4. Tucson shall determine evaporation losses representative of the conditions at or near the SAVSARP using the method indicated in Underground Storage Facility Permit No. 71-211276, or using actual measurement, when available. Any other losses in the SAVSARP shall be calculated using generally accepted engineering practices.

14. Clearwater Water Losses

14.1. The Authority shall not be responsible to pay CAWCD for any Authority Water that is lost or unaccounted for between the Clearwater Point(s) of Delivery and the point(s) at which the water enters the Clearwater that exceeds five (5) percent of the Authority Water delivered to the Clearwater Point(s) of Delivery. Tucson shall be solely responsible to pay CAWCD for any Authority Water that is lost or unaccounted for between the Clearwater Point(s) of Delivery and the point(s) at which the water enters the Clearwater that exceeds five (5) percent of the Authority Water delivered to the Clearwater Point(s) of Delivery.

14.2. Water delivered to Clearwater for storage but which exits the facility, other than by infiltration and evaporation, will be calculated using generally accepted engineering practices and water-level readings from the gauges in the basins. Water losses determined pursuant to this Subarticle 14.2 shall be apportioned by Tucson among the Authority and other entities storing water at Clearwater based on the amount of water delivered at the Point(s) of Delivery for each entity during the period the loss occurred.

15. Liability

15.1. Each party shall assume liability for its own negligence and any damages that result from that negligent action or inaction.

DRAFT 2/17/09

15.2. The obligations set forth in this section shall survive expiration or termination of this Agreement and remain in full force and effect.

16. Default

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

17. Interruptions or Curtailments in Delivery

Storage of Authority Water shall be in accordance with Authority requests as set forth in Article 8 of this Agreement, and shall be subject to availability of Authority Water at the Clearwater Point(s) of Delivery.

18. Uncontrollable Forces

Neither Party shall be considered to be in default in the performance of any of its obligations hereunder when a failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the Party unable to perform such obligation, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, government priorities and restraint by court order or public authority, and action or non-action by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require either Party to settle any strike or labor dispute in which it is involved.

19. Resolution of Disputes

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

19.1.1. Arbitration shall be binding only upon the consent of the Parties.

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

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

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

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

20. Action Pending Resolution of Disputes

Pending the resolution of a dispute pursuant to Article 19, each Party shall proceed, to the extent legally permissible, in a manner consistent with this Agreement, and

DRAFT 2/17/09

shall make payments required in accordance with the applicable provisions of this Agreement. Amounts paid by a Party pursuant to this Article 20 during the pendency of such dispute shall be subject to refund and adjustment upon a final resolution of any dispute involving an amount due. Upon such final resolution, the owed amounts shall be remitted with interest in accordance with the remittance procedures/arrangements contained in Article 11.

21. Termination of Agreement

This Agreement may be terminated under the following circumstances:

21.1. If the Excess Water Contract between the Authority and CAWCD is terminated, the Authority may terminate this Agreement, which termination shall be effective fifteen (15) days after mailing written notice of termination to Tucson; or

21.2. If the Authority determines in its sole discretion that Tucson is operating Clearwater in a manner which is likely to jeopardize the ability of the Authority to earn Long Term Storage Credits, as defined in A.R.S. 45-802.01(11), for Authority Water delivered to Clearwater for the benefit of the Authority, the Authority may terminate this Agreement, which termination shall be effective ten (10) days after mailing written notice of termination to Tucson; or

21.3 Upon 180 days written notice by either party; or

21.4. In the manner and for any reason otherwise provided herein.

22. Compliance with Laws

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

23. Books, Records, and Reports

Tucson shall establish and maintain accounts and other books and records

DRAFT 2/17/09

pertaining to administration of the terms and conditions of this Agreement. Reports shall be furnished to the Authority in such form and on such date or dates as the Authority may reasonably require. Subject to applicable federal and state laws and regulations, each Party to this Agreement shall have the right during office hours to examine and make copies of the other Party's books and records relating to matters covered by this Agreement.

24. Notices

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

If to the Authority:

Manager
Arizona Water Banking Authority
3550 N. Central Avenue
Phoenix, Arizona 85012

If to Tucson:

Director
Tucson Water
PO Box 27210
Tucson, AZ 85726-7210

The designation of the address or addressee for the giving of notice may be changed by notice given as provided in this Article 24.

25. Assignments Limited -- Successors and Assigns Obligated

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

26. No Third Party Beneficiaries

This Agreement is solely for the benefit of the Parties, and does not create nor shall

DRAFT 2/17/09

it be construed to create rights in any third party unless expressly provided herein.
No third party may enforce the terms and conditions of this Agreement.

27. Waiver

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

28. Cancellation

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

29. Consistency With Other Agreements

This Agreement is intended to be consistent with the Excess Water Contract between the Authority and CAWCD. Upon agreement by the Parties this Agreement may be amended or supplemented to conform to an amended or supplemented Excess Water Contract; provided, if the Parties cannot agree within 90 days after written notice from either Party to the other Party to amend or supplement this Agreement pursuant to this Article, either Party may terminate this Agreement.

30. Entire Agreement

The terms, covenants and conditions of this Agreement constitute the entire agreement between the Parties relative to the storage of Authority Water for the Authority by Tucson at the Clearwater, and no understandings or obligations not herein expressly set forth shall be binding upon them. This Agreement may not be modified or amended in any manner unless in writing and signed by the Parties.

31. Equal Opportunity and Non-Discrimination

The parties shall comply with Chapter 9, Title 41, Arizona Revised Statutes, Arizona Executive Orders 75-5 and 99-4 and any other federal or state laws relating to equal opportunity and non-discrimination, including the Americans with Disabilities Act.

DRAFT 2/17/09

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

ARIZONA WATER BANKING AUTHORITY

Attest: _____
Secretary

By: _____
Chairman

CITY OF TUCSON

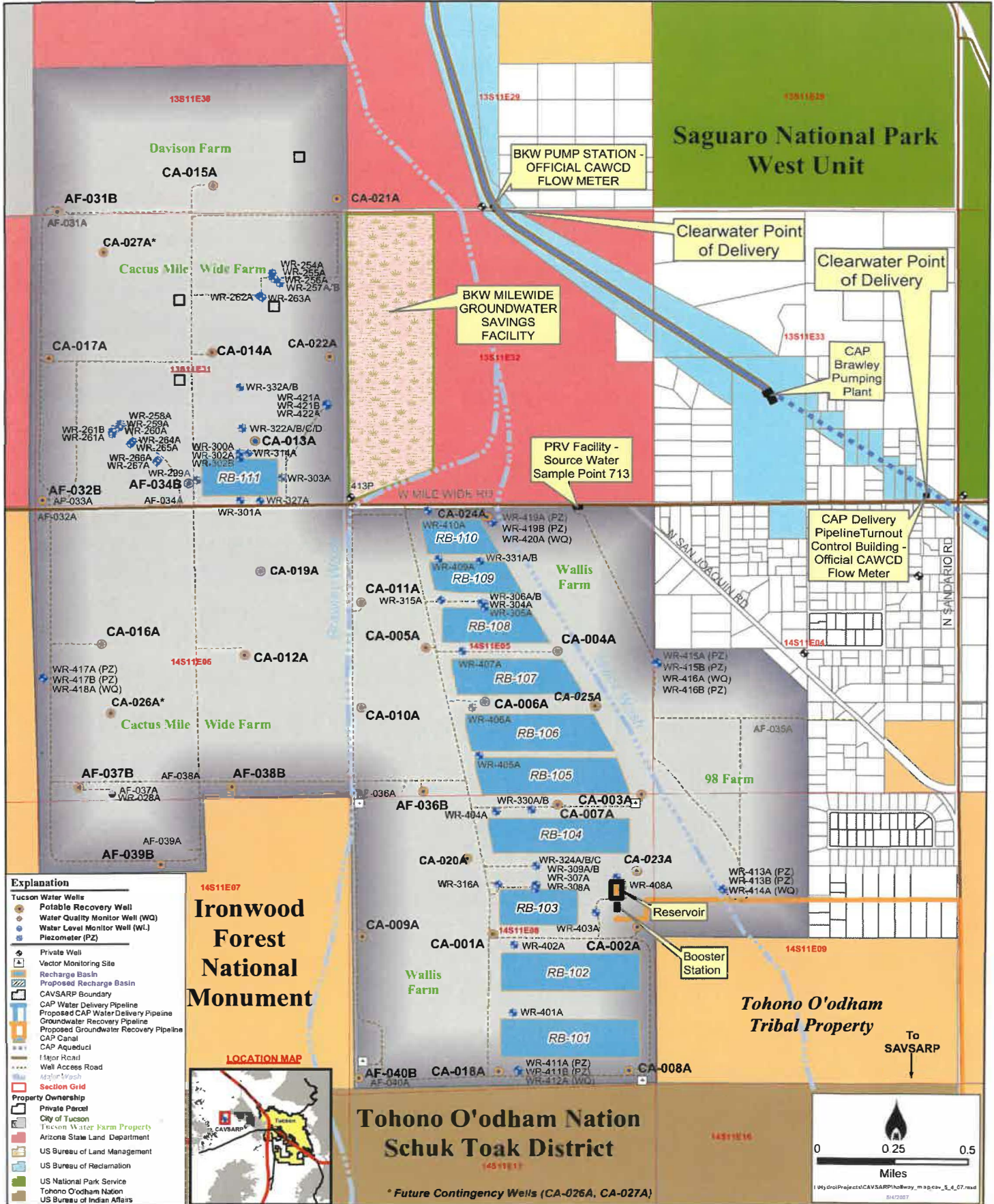
Attest: _____

By: _____

Title: _____

Title: _____

APPENDIX A



Explanation

Tucson Water Wells

- Potable Recovery Well
- Water Quality Monitor Well (WQ)
- Water Level Monitor Well (WL)
- Piezometer (PZ)

Other Symbols

- Private Well
- Vector Monitoring Site
- Recharge Basin
- Proposed Recharge Basin
- CAVSARP Boundary
- CAP Water Delivery Pipeline
- Proposed CAP Water Delivery Pipeline
- Groundwater Recovery Pipeline
- Proposed Groundwater Recovery Pipeline
- CAP Canal
- CAP Aqueduct
- Major Road
- Well Access Road
- Section Grid

Property Ownership

- Private Parcel
- City of Tucson
- Tucson Water Farm Property
- Arizona State Land Department
- US Bureau of Land Management
- US Bureau of Reclamation
- US National Park Service
- Tohono O'odham Nation
- US Bureau of Indian Affairs

Ironwood Forest National Monument

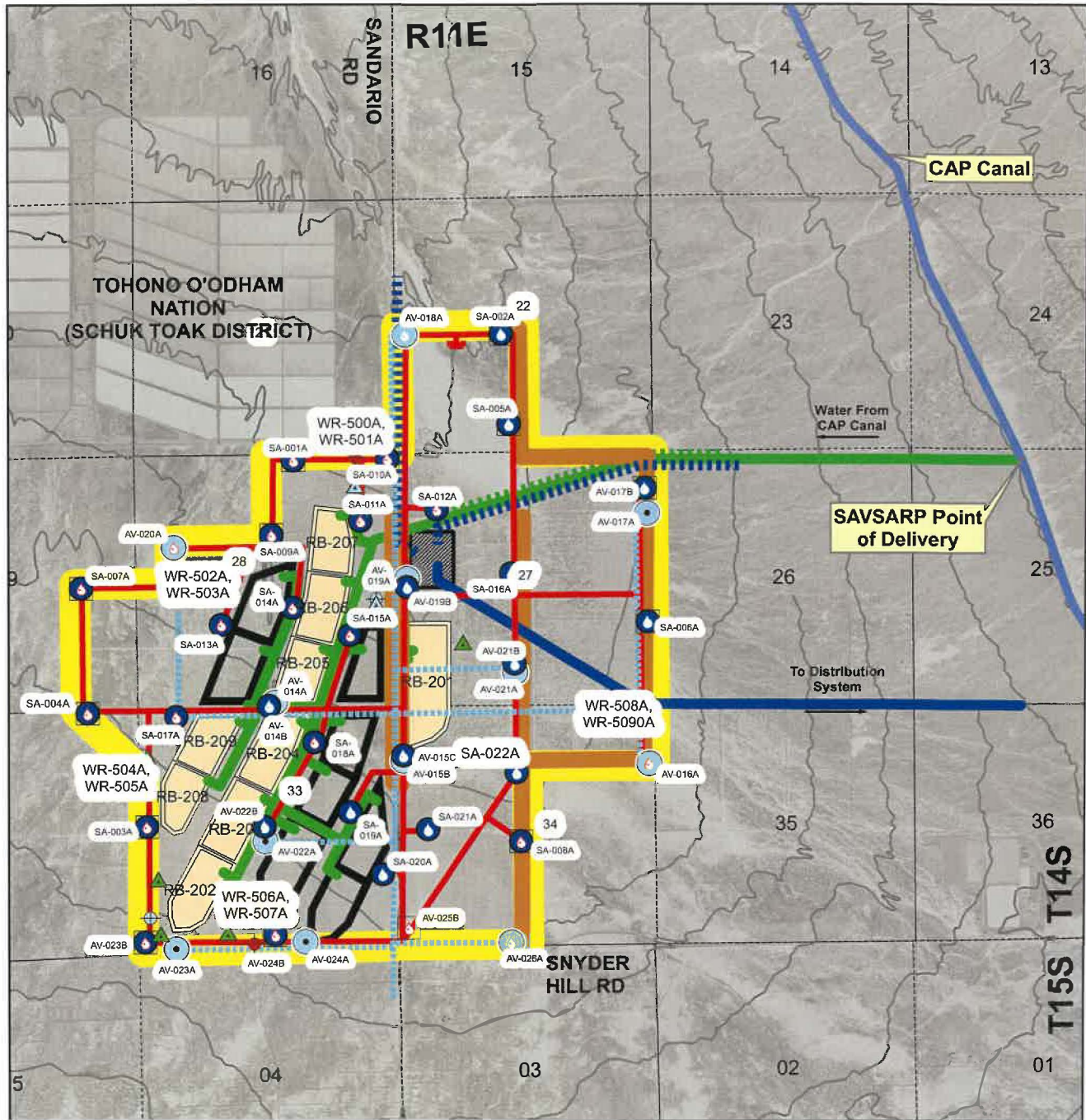
LOCATION MAP

Tohono O'odham Nation Schuk Toak District

* Future Contingency Wells (CA-026A, CA-027A)



APPENDIX B



Legend

- Production Well Online by May 2011
- Production Well Online after May 2011
- Current Production Well
- Future Production Well
- Future Production Well - Drilled

Monitor Wells & Piezometers
Type, Status

- Compliance Point, Existing
- Monitor Well, Existing
- Nested Piezometer, Existing
- Nested Piezometer, Proposed

Collector Lines

- Type
- Existing Collector Line
- Future Collector Line

Raw Water Pipeline

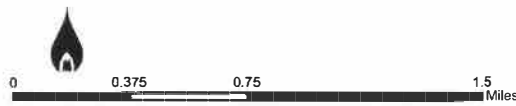
- Status
- Initial
- Potential Future

Production Pipeline

- Status
- Initial
- Potential Future

- Reservoir and Booster Station
- SAVSARP Boundary
- Flood Control Levees
- Proposed Recharge Basins**
- Phase
- Initial
- Contingency

Basin and Pipeline Design Services By:
MALCOLM PIRNIE
CH2MHILL



**CAVSARP
SAVSARP**

**AdminCosts
related to storing water at facilities**

FY 2009

Staffing	
2 FTE costs	133,250
Dee Korich	
Dick Thompson	

**Monitoring Costs
related to storing water at facilities**

FY 2009

Annual Sampling at CAVSARP and SAVSARP	196,212
Total Admin Costs	329,462
Total O&M Costs	813,670
Total Admin and O&M	1,143,132
Cost per AF	7.47
Storage Facilities cost per AF	6.82
Total Cost per AF	14.29

CAVSARP

Facilities associated with storage only

	useful life	Cost	Annual Depreciation
Raw Water Pipe 54"	50	\$ 46,118.00	\$ 922.36
Raw Water Pipe 60"	50	2,937,996	58,760
Recharge Facilities	30	20,071,136	669,038
Raw Water Flow Meter and Vault	100	1,252,492	12,525
	57.5	<u>\$ 24,307,742</u>	<u>\$ 741,245</u>

55% of Depreciation**SAVSARP**

SAVSARP Recharge Basins	30	\$ 19,009,782	633,659
SAVSARP Raw Water Delivery Pipeline	50	17,404,649.42	348,093
	52.5	\$ 36,414,431	981,752

TOTAL		\$ 60,722,173	1,156,612.83
--------------	--	---------------	--------------

1,897,857.89

1,043,821.84

6.82

CAVSARP COSTS

Source:

Fixed Asset Transmittal to capitalize CAVSARP
from FY 2007

<u>CIP</u>	<u>Project Name</u>	<u>Inception through YE FY08</u>	<u>FY09 planned Exp.</u>	<u>Total Expenditures</u>
W439	SAVSARP Recharge Basins	14,796,441.05	4,213,341.00	19,009,782.05
W339	SAVSARP Raw Water Delivery Pipeline	14,854,649.42	2,550,000.00	17,404,649.42
Total SAVSARP Expenditures		29,651,090.47	6,763,341.00	36,414,431.47

March 30, 2009

Since I am unable to attend the April 1st Bank meeting, I want to provide my comments on the request by The Mohave County Water Authority to bolster the existing Agreement to Firm Future Supplies.

My understanding is that the Water Authority would like to increase its certainty regarding the availability of Water Bank credits for its use during declared Colorado River shortages. The Water Authority is particularly concerned with the availability of replacement of credits, when existing credits have been used to backfill shortages, so that they have protection against multiple shortages. Additionally, the Water Authority would like to add Cibola Irrigation District water that was recently acquired, to the water that will be firmed pursuant to the Agreement to Firm Future Supplies.

I believe that the Mohave County Water Authority is exhibiting sound water resources planning by seeking to bolster the existing Agreement to Firm Future Supplies. In my opinion, the Water Authority has shown itself to be a "good actor" on several fronts related to the management of Colorado River supplies. They stepped up and committed money to guarantee payment for credits created with general fund appropriations and they negotiated in good faith with the CAP water users regarding shortage sharing through the Arizona Department of Water Resources, Director's Shortage Sharing Workshops. In a shortage, water users along the Colorado River do not have the ability to pump groundwater from wells adjacent to the Colorado River because those wells are likely to be deemed to be pumping River water. It is incumbent upon the Water Bank to consider these circumstances when addressing the Water Authority's request.

I also understand the Water Bank staff has concerns that since the credits were created with general fund money and they are authorized to be used for a variety of Water Bank purposes, some flexibility is appropriate for alternative uses of those credits, if the future hydrologic conditions create a situation where the Water Authority does not have a need for all, or a portion of those credits. That is a valid concern and should also be addressed.

I recognize that this is a very difficult balancing act for both the Water Bank and the Water Authority.

Therefore, I would like to see the Water Bank staff analyze the appropriate credit need with the addition of the Cibola water and work with the Water Authority representatives to formulate acceptable language to amend the Agreement to create the certainty the Water Authority seeks and the flexibility that the Water Bank needs.

Tom Buschatzke

Position Paper

Mohave County Water Authority ("MCWA") is seeking to implement Arizona Water Banking Authority ("AWBA") Resolution 2008-1 by contract between MCWA and AWBA.

Consistent with Resolution 2008-1, MCWA proposes amending Exhibit A with the following terms:

1. Acquired Water. The Colorado River water entitlement MCWA acquired from Cibola Irrigation District and the City of Kingman will be included in the Agreement to Firm Future Supplies. Any additional Colorado River water entitlement 4th Priority or better acquired by MCWA or subcontractor of MCWA can be firmed under the Agreement.
2. Revolving Fund. Any replacement credits paid for or provided by MCWA or its subcontractors are to be deposited in a revolving fund for their future use. See Resolution 2008-1, ¶ 1-2.
3. Money or Water. Replacement credits can be money to AWBA or water. See Resolution 2008-1, ¶ 3.
4. New Parties. Additional parties can participate in the agreement. Resolution 2008-1, ¶ 4.
5. Dissolution. If the Water Bank is dissolved, the credits will be assigned to MCWA or MCWA subcontractor as appropriate for use in times of shortage.
6. Third-Party Banking. Any contract between MCWA or its members and a third party to bank water must be provided to AWBA and attached hereto in Exhibit C.

To offer AWBA ability to use long term storage credits if needed to meet other AWBA commitments, MCWA proposes the following:

7. Credits Available to AWBA. If AWBA determines that it has a shortfall in LTS Credits to a third party, then AWBA may use the replacement LTS Credits allocated to MCWA or its subcontractors provided the amount of replacement LTS Credits to be used by AWBA from MCWA's or its subcontractors' replacement credit account is proportional to the amount of LTS Credits to be used by AWBA from all other M&I parties and the LTS Credits will be replaced at a time no later than in the year when the LTS Credits borrowed by AWBA are needed by MCWA or a MCWA subcontractor.

Amendment No. 1 to EXHIBIT A

This Amended Exhibit A, made this ____ day of _____, 2009, to be effective under and as part of the Agreement to Firm Future Supplies shall become effective on the date of execution and shall remain in effect until superseded by another Amended Exhibit A executed by all of the parties. This Amended Exhibit A or any superseding Amended Exhibit A shall terminate with the termination of the Agreement to Firm Future Supplies.

RECITALS

- A. Mohave County Water Authority (MCWA) and the Arizona Water Banking Authority (AWBA) entered into the Agreement to Firm Future Supplies on February 4, 2005 (Agreement).
- B. MCWA, since the execution of the February 2005 Agreement, has acquired a portion 4,278 acre-feet of the Article 5 Contract previously held by Cibola Irrigation District and 3,500 acre feet previously held by the City of Kingman.
- C. MCWA wishes to amend Exhibit A to include their newly acquired Colorado River water entitlement in the Agreement to Firm Future Supplies.
- D. On _____, 2008, AWBA adopted Resolution 2008-1, which provided, in part, that: (1) AWBA will establish a separate replacement account that utilizes funds provided to AWBA from the reimbursement of credits transferred to mainstream water users and will use the funds in that account to replace those credits; and (2) those credits would be available to the entity that paid to replace the original credits under the same conditions as identified in A.R.S. § 45-2457(B)(2)(a).

EXHIBIT TERMS

- 1. The Colorado River water entitlements MCWA acquired from Cibola Irrigation District and the City of Kingman are hereby included in the Agreement to Firm Future Supplies. Therefore, the LTS Credits Reserved for each Subcontract Entity are set forth in Table 1 below:

Subcontract Entity	LTS Credits Reserved (AF) (as of December 2008 based on proportion of 403,830/420,000)	LTS Credits (AF) Maximum Total (based on 420,000 AF)
Arizona State Parks	377	392
Bullhead City	88,844	92,401
Lake Havasu City	105,473	109,696
Mohave Water Cons. Dist.	20,106	20,911
Mohave County Water Authority	32,580	33,885
Total	247,380	257,285

2. The Parties acknowledge and agree that any additional Colorado River water entitlement 4th Priority or better acquired by MCWA or subcontractor of MCWA can be firmed under the Agreement. This will result in an amended Exhibit A Table 1 indicating a corresponding increase in the amount of LTS Credits Reserved.

3. Pursuant to AWBA Resolution No. 2008-1, AWBA will create a Revolving Fund for future use by MCWA and MCWA Subcontractors.

4. If and when used LTS Credits are paid for or replaced by MCWA or MCWA Subcontractor, then MCWA or MCWA Subcontractor will receive Replacement Credits of equal quantity in the Revolving Fund. The Replacement Credits will be reserved for future use during times of Shortage by either MCWA or MCWA Subcontractors responsible for causing the Replacement Credit to be allocated to the Revolving Fund.

5. In addition to accruing LTS Credits through monetary payment to AWBA, MCWA and MCWA Subcontractors have the option, but not the obligation, of accruing LTS Credits by purchasing water from a third party and banking that water at their own expense in a facility as reasonable directed by the AWBA. Any contract between MCWA or MCWA Subcontractor and a third party to bank water must be provided to AWBA.

6. Additional mainstream Colorado River water users shall be given an opportunity to participate in the Agreement provided MCWA consents to the additional parties' participation in this Agreement. This will result in an amended Exhibit A Table 1 indicating a new party is participating in the Agreement and a corresponding increase in the amount of LTS Credits Reserved.

7. If AWBA determines that it has a shortfall in LTS Credits to a third party, then AWBA may use the replacement LTS Credits allocated to MCWA or its subcontractors provided the amount of replacement LTS Credits to be used by AWBA from MCWA's or its subcontractors' replacement credit account is proportional to the amount of LTS Credits to be used by AWBA from all other M&I parties and the LTS Credits will be replaced at a time no later than in the year when the LTS Credits borrowed by AWBA are needed by MCWA or a MCWA subcontractor.

8. If the Water Bank is ever dissolved, then credits assigned to MCWA or MCWA Subcontractors will be provided the entity to which the credits are allocated in the Revolving Fund for use in times of shortage.

9. To the extent there is a conflict between the Agreement and Exhibit A this Exhibit A shall control.

In Witness of this Agreement, the Parties affix their official signatures below,

acknowledging execution of this Exhibit A on the _____ day of _____, 2009.

Arizona Water Banking Authority

Attest:

By: _____
Thomas Buschatzke, Secretary

By: _____
Herbert R. Guenther, Chairman

Mohave County Water Authority

Attest:

By: _____
Carole Young, Secretary/Treasurer

By: _____
Tom Griffin, Chairman

Discussion Paper

Amending the Agreement to Firm Future Supplies

Background

In January 1998, the AWBA adopted a motion that identified 420,000 AF of credits as a reasonable number of long-term storage credits to be reserved to firm the Colorado River supplies of the 4th priority domestic user outside the CAP service area. This action was required by statute. The analysis used to arrive at the number was a probability-based analysis that used the probability of a shortage occurring over the next 100 years to determine the quantity of long-term storage credits required to firm the 4th priority supplies. The analysis used a computer model to simulate various scenarios of future River operations. The same method was used to develop the AMA firming goals with one minor modification. In developing the AMA goals the potential future use of groundwater was included while for the River communities groundwater was not available.

Pursuant to statute, appropriations from the State's General Fund could be used to develop these credits. In addition to using appropriations from the State's General Fund to develop these credits, those appropriations can also be used to firm CAWCD's municipal and industrial subcontractors supplies, to implement the settlement of Indian water rights claims and meeting water management goals. Statute also required that credits developed with these appropriations be replaced if they were used to firm non-Indian supplies. The reasons replacement was required were first, it would generate additional credits benefiting all the uses identified in the statute for this account while reducing the burden on the State's General Fund, and second, it ensures that those receiving firming benefits from the AWBA pay for those benefits.

As the State put more and more effort into settling Indian claims, while at the same time eliminating the AWBA's appropriations from the General Fund, the communities along the River became concerned that a major portion of the credits that had been developed with these appropriations would be dedicated to the settlement of Indian claims leaving only a small amount of credits available to firm their supplies. In response to these concerns, in March 2002, the AWBA passed Resolution 2002-1. This Resolution gave the 4th priority users of Colorado River water outside the CAP service area a priority for the use of credits developed with appropriations from the General Fund. At the time the Resolution was passed, the General Fund account had approximately 396,000 AF. Recognizing the resolutions could be changed by future AWBA members, the Mohave County Water Authority (MCWA) requested the AWBA enter into a contract for their portion of the 420,000 AF reserved for the River communities.

In February 2005, the AWBA entered into the Agreement To Firm Future Supplies (Agreement to Firm) with the MCWA. This agreement provides certainty for MCWA and its members on the quantity of credits that would be available during times of shortage. Under this agreement, the AWBA agrees to transfer credit to the MCWA and the MCWA agrees to reimburse the AWBA for the credits that are transferred. In July 2005, the two exhibits that accompany the agreement were made effective. Exhibit A identified the amount of long-term storage credits that would be available to the MCWA and its members based on a prorata share of the 396,000 AF. Based on the total 420,000 AF reserved, the MCWA share was approximately 244,000 AF; however, based on the available 396,000 AF the MCWA share was approximately 230,000 AF. (Note: The prorata share for the available credits was calculated by first dividing the available credits by the total credits reserved, then multiplying the result by the normal year contract entitlements of the entities participating in the agreement.) Exhibit B established the percentage for the proration between the available credits and the total credits reserved. The agreement recognized that these exhibits could be change to reflect changes to the long-term storage credits.

In 2005, the ADWR Director established the Arizona Shortage Sharing Stakeholder Workgroup. The Workgroup was tasked to provide the Director with recommendations on Colorado River shortage operation strategies and allocating shortage supplies among CAP and the other 4th priority mainstream users. In October 2006, the Workgroup provide its recommendations on allocating Colorado River supplies among Arizona users during times of shortage. Included within those recommendations was a recommendation that the AWBA create a revolving fund for credits that are created through the replacement of the General Fund credits used for firming.

Based on the Workgroup's recommendations and at the request of the River users in March 2008, the AWBA approved Resolution 2008-1. In the Resolution, the AWBA agreed to establish a separate account for any replacement credits and that those replacement credits would be available for the benefit of the entity that paid to replace the original credits. Currently the only entity that has committed to replacing the credits is MCWA pursuant to the Agreement to Firm.

Current Concerns

MWCD has raised concerns similar to the ones they raised over Resolution 2002-1 dealing with the certainty that the replacement credits will be available to them in the future based only on an AWBA resolution. Based on these concerns MCWA has requested that the AWBA consider amending the Agreement to Firm to provide contractual certainty that the credits they paid to replace would be available for their future use. They also suggested several other potential amendments to the Agreement to Firm which would recognize that the parties to the agreement have increased their normal year entitlements.

Staff Discussion

The Agreement to Firm recognizes that it might be amended in the future to address changes in circumstances. The amendments envisioned for the Agreement to Firm dealt mainly with modifying the exhibits to the Agreement to Firm to recognize additional available credits, changes in the parties' entitlements and adding new parties to the agreement. Amended Exhibits A and B that accomplished these changes were presented to the AWBA Commission in December, 2008 and are attached.

Staff feels that Resolution 2008-1 and not an amendment to the Agreement to Firm is the appropriate way to deal with the issue of the replacement credits. At the time the Resolution was approved, the AWBA had \$13.5 million to assist in meeting the states Indian firming obligation. Also, projections of future water supplies available to the AWBA to help meet those obligations were much more optimistic than current projections. The staff believes that it is inappropriate to contractually commit any additional credits for any purpose until it better defines its opportunities to meet those obligations. The staff believes that Resolution 2008-1 is still the appropriate mechanism to indicate the AWBA position on how to deal with the replacement credits while not limiting the AWBA's ability to manage future changes and its current obligations.

3/31/09

T. Henley

Amendment No. 1 to EXHIBIT A

This Amended Exhibit A, made this ____ day of _____, 2008, to be effective under and as part of the Agreement to Firm Future Supplies shall become effective on the date of execution and shall remain in effect until superseded by another Amended Exhibit A executed by all of the parties. This Amended Exhibit A or any superseding Amended Exhibit A shall terminate with the termination of the Agreement to Firm Future Supplies.

RECITALS

- A. Mohave County Water Authority (MCWA) and the Arizona Water Banking Authority (AWBA) entered into the Agreement to Firm Future Supplies on February 4, 2005.
- B. MCWA acquired a portion of the Article 5 Contract previously held by Cibola Irrigation District and the City of Kingman.
- C. MCWA wishes to amend Exhibit A to include their newly acquired Colorado River water entitlement in the Agreement to Firm Future Supplies.

EXHIBIT

Subcontract Entity	LTS Credits Reserved (AF) (as of December 2008 based on proportion of 403,830/420,000)	LTS Credits (AF) Maximum Total (based on 420,000 AF)
Arizona State Parks	377	392
Bullhead City	88,844	92,401
Lake Havasu City	105,473	109,696
Mohave Water Cons. Dist.	20,106	20,911
Mohave County Water Authority	32,580	33,885
Total	247,380	257,285

In Witness of this Agreement, the Parties affix their official signatures below,

acknowledging execution of this Exhibit A on the ____ day of _____, 2008.

Arizona Water Banking Authority

Attest:

By: _____
Thomas Buschatzke, Secretary

By: _____
Herbert R. Guenther, Chairman

Mohave County Water Authority

Attest:

By: _____
Monica Gates, Secretary/Treasurer

By: _____
Tom Griffin, Chairman

Amendment No. 1 to EXHIBIT B

This Amended Exhibit B, made this _____ day of _____, 2008, to be effective under and as part of the Agreement to Firm Future Supplies shall become effective on the date of execution and shall remain in effect until superseded by another Amended Exhibit B executed by all of the parties. This Amended Exhibit B or any superseding Amended Exhibit B shall terminate with the termination of the Agreement to Firm Future Supplies

RECITALS

- A. Mohave County Water Authority and the Arizona Water Banking Authority (AWBA) entered into the Agreement to Firm Future Supplies on February 4, 2005.
- B. The AWBA recomputed the Long Term Storage (LTS) credits created with general fund appropriations based on expended funds.

EXHIBIT

Acre-feet of LTS Credits developed by AWBA for the benefit of M&I Users:

Total:	403,830	(96.2% of 420,000 AF)
--------	---------	-----------------------

In Witness of this Agreement, the Parties affix their official signatures below,

acknowledging execution of this Amended Exhibit B on the _____ day of _____, 2008.

Arizona Water Banking Authority

Attest:

By: _____
Thomas Buschatzke, Secretary

By: _____
Herbert R. Guenther, Chairman

Mohave County Water Authority

Attest:

By: _____
Monica Gates, Secretary/Treasurer

By: _____
Tom Griffin, Chairman

RESOLUTION 2008-1
of the
Arizona Water Banking Authority

WHEREAS, the Arizona Water Banking Authority (“Authority”) is required to reserve a reasonable number of credits accrued with general fund appropriations for the benefit of fourth priority municipal and industrial users of Colorado River water in the State of Arizona that are outside the Central Arizona Water Conservation District service area (mainstream water users);

WHEREAS, the Authority is required to collect reimbursement for the cost of replacing credits that are distributed for that purpose and is required to replace those credits;

WHEREAS, on January 21, 1998, the Authority adopted a motion identifying 420,000 acre-feet as the reasonable number of long-term storage credits (“credits”) to be developed and set aside for the benefit of mainstream water users;

WHEREAS, on March 20, 2002, the Authority adopted Resolution 2002-1, which provided, in part, that the first priority of the use of credits accrued with general fund appropriations shall be to develop and set aside a reasonable number of credits as determined by the Authority’s commission for the benefit of mainstream water users;

WHEREAS, on February 4, 2005, the Authority and the Mohave County Water Authority (“MCWA”) entered into an Agreement To Firm Future Supplies (“Firming Agreement”) under which the Authority has agreed to transfer credits to MCWA during times of shortage and MCWA agreed to reimburse the Authority for any credits that have been transferred to MCWA;

WHEREAS, a Director's Shortage-Sharing Workgroup ("Shortage-Sharing Workgroup") was established to develop a strategy for implementing future Colorado River shortages in the lower basin, and for allocating shortages between the Central Arizona Project ("CAP") and equivalent priority mainstream water users;

WHEREAS, the Shortage-Sharing Workgroup made the recommendation that the Authority create a revolving fund and that, as Authority credits are used and replaced, the new credits will be placed in the revolving fund and will be earmarked for the entity that paid to have the credits replaced and that the new credits would be available only for the purpose that the original credits were used;

WHEREAS, the MCWA agreed to the methodology for sharing Colorado River shortage allocations described in the Shortage-Sharing Workgroup Recommendation dated October 24, 2006.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the Authority, as follows:

1. That the Authority will establish a separate replacement account that utilizes funds provided to the Authority from the reimbursement of credits transferred to mainstream water users and will use the funds in that account to replace those credits;
2. That those credits would be available to the entity that paid to replace the original credits under the same conditions as identified in A.R.S. § 45-2457(B)(2)(a);
3. That the Authority will keep a record of the entities that have reimbursed those credits and the amount of credits that have been replaced;

4. That the Authority has not foreclosed the opportunity for any mainstream water users to contract with the AWBA for firming.

IN WITNESS WHEREOF, the Chairman of the Authority approves this Resolution by affixing his signature below on this 12th day of March, 2008.



Herbert R. Guenther, Chairman
Arizona Water Banking Authority

Attest:



Thomas Buschatzke, Secretary
Arizona Water Banking Authority

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

Current GSF Partner Cost Share - \$32/AF - Zero Capacity Available

Cumulative Credits (AF)	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ad valorem ¹	263,938	306,707	350,022	393,761	436,085	460,177	484,775	509,818	509,818	509,818
Withdrawal Fees	85,131	88,862	92,047	94,808	97,395	99,871	102,256	104,548	106,756	108,883
Percent Goal Achieved	31%	35%	41%	46%	50%	53%	56%	59%	59%	59%
Goal Including W/Fees	40%	46%	51%	57%	62%	65%	68%	71%	71%	72%

GSF Partner Cost Share - \$15/AF - 20 kAF capacity

Cumulative Credits (AF)	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ad valorem	263,938	324,005	384,997	428,351	455,121	482,211	509,769	537,772	537,772	537,772
Withdrawal Fees	85,131	90,164	94,272	97,731	100,946	104,014	106,956	109,777	112,482	115,076
Percent Goal Achieved	31%	38%	45%	50%	53%	56%	59%	62%	62%	62%
Goal Including W/Fees	40%	48%	55%	61%	64%	68%	71%	75%	75%	76%

GSF Partner Cost Share - \$15/AF - 15 kAF capacity

Cumulative Credits (AF)	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ad valorem	263,938	319,355	375,697	423,880	449,742	475,934	502,613	529,744	529,744	529,744
Withdrawal Fees	85,131	90,164	94,272	97,731	100,946	104,014	106,956	109,777	112,482	115,076
Percent Goal Achieved	31%	37%	43%	49%	52%	55%	58%	61%	61%	61%
Goal Including W/Fees	40%	47%	54%	60%	64%	67%	71%	74%	74%	75%

GSF Partner Cost Share - \$15/AF - 10 kAF capacity

Cumulative Credits (AF)	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ad valorem	263,938	314,705	366,397	418,738	444,326	469,620	495,420	521,679	521,679	521,679
Withdrawal Fees	85,131	90,164	94,272	97,731	100,946	104,014	106,956	109,777	112,482	115,076
Percent Goal Achieved	31%	36%	42%	48%	51%	54%	57%	60%	60%	60%
Goal Including W/Fees	40%	47%	53%	60%	63%	66%	70%	73%	73%	74%

GSF Partner Cost Share - \$20/AF - 10 kAF capacity

Cumulative Credits (AF)	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ad valorem	263,938	314,391	365,873	418,065	444,683	470,139	496,101	522,521	522,521	522,521
Withdrawal Fees	85,131	90,479	94,796	98,404	101,749	104,936	107,988	110,911	113,711	116,393
Percent Goal Achieved	31%	36%	42%	48%	51%	54%	57%	60%	60%	60%
Goal Including W/Fees	40%	47%	53%	60%	63%	67%	70%	73%	74%	74%

¹ A.R.S. § 48-3715.02, which provides CAWCD the authority to levy the *ad valorem* tax for water storage, will be repealed effective January 2, 2017. Therefore, collections were not included beyond 2016.

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

Current GSF Partner Cost Share - \$32/AF - Zero Capacity Available

Tucson AMA	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Goal 864,000										
Available Supplies (AF)¹	56,253	88,342	95,036	99,398	100,168	100,396	100,251	100,312	114,142	114,332
Capacity (AF)										
USF	24,124	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
GSF	0	0	0	0	0	0	0	0	0	0
Costs/AF										
Water Delivery ²	82	100	118	136	144	149	153	158	163	168
Avg. USF storage fee ²	15	15	15	16	16	17	17	18	18	19
GSF Cost Share	0	32	32	32	32	32	32	32	32	32
Funding										
Ad valorem carryover	\$8,247,512	\$10,535,578	\$8,899,580	\$6,427,052	\$3,199,311	\$0	\$0	\$0	\$0	\$0
Ad valorem collected ³	\$3,744,508	\$3,636,502	\$3,715,722	\$3,901,508	\$4,096,584	\$4,301,413	\$4,516,483	\$4,742,308		
Withdrawal Fees	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Expenditures										
Ad valorem										
USF	\$1,456,441	\$5,272,500	\$6,188,250	\$7,129,250	\$7,295,894	\$4,301,413	\$4,516,483	\$4,742,308	\$0	\$0
GSF	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Withdrawal Fees										
USF	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
GSF	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Deliveries (AF)										
Ad valorem										
USF	15,124	45,988	46,575	47,031	45,510	25,905	26,449	26,928	0	0
GSF	0	0	0	0	0	0	0	0	0	0
Withdrawal Fees										
USF	7,847	4,012	3,425	2,969	2,782	2,662	2,565	2,464	2,374	2,287
GSF	0	0	0	0	0	0	0	0	0	0
Total Deliveries	7,847	45,988	46,575	47,031	45,510	25,905	26,449	26,928	0	0
Unused Capacity ⁴		0	0	0	1,708	21,433	20,986	20,607	47,626	47,713
Annual Credits (AF)										
Ad valorem	14,065	42,769	43,315	43,739	42,324	24,092	24,598	25,043	0	0
Withdrawal Fees	7,297	3,731	3,185	2,761	2,587	2,476	2,385	2,292	2,208	2,127
Cumulative Credits (AF)										
Ad valorem	263,938	306,707	350,022	393,761	436,085	460,177	484,775	509,818	509,818	509,818
Withdrawal Fees	85,131	88,862	92,047	94,808	97,395	99,871	102,256	104,548	106,756	108,883
Percent Goal Achieved	31%	35%	41%	46%	50%	53%	56%	59%	59%	59%
Goal Including W/Fees ⁵	40%	46%	51%	57%	62%	65%	68%	71%	71%	72%

¹ Assumes 125,000 acre-feet total available to the AWBA. Balance available for Tucson is the total less estimated Pinal deliveries.

² Based on CAWCD's rate schedule adopted June 19, 2008 (2009-2014); 2015-2018 estimated; 3% annual increase used for water delivery rates.

³ Based on CAWCD's long-term planning estimates.

⁴ Water available for the Phoenix AMA. Water not used in Phoenix is available for Nevada.

⁵ 2009 does not include withdrawal fee credits accrued in 2008 because those credits are dedicated to Indian firming.

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

GSF Partner Cost Share - \$15/AF - 20 kAF capacity

Tucson AMA	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Goal 864,000										
Available Supplies (AF)¹	56,253	88,342	95,036	99,398	100,168	100,396	100,251	100,312	114,142	114,332
Capacity (AF)										
USF	24,124	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
GSF <input type="text" value="20 kAF"/>	0	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Costs/AF										
Water Delivery ²	82	100	118	136	144	149	153	158	163	168
Avg. USF storage fee ²	15	15	15	16	16	17	17	18	18	19
GSF Cost Share <input type="text" value="15"/>	0	15	15	15	15	15	15	15	15	15
Funding										
Ad valorem carryover	\$8,247,512	\$10,535,578	\$7,199,580	\$2,667,052	\$0	\$0	\$0	\$0	\$0	\$0
Ad valorem collected ³	\$3,744,508	\$3,636,502	\$3,715,722	\$3,901,508	\$4,096,584	\$4,301,413	\$4,516,483	\$4,742,308		
Withdrawal Fees	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Expenditures										
Ad valorem										
USF	\$1,456,441	\$5,732,500	\$6,643,250	\$4,598,561	\$1,962,584	\$2,063,413	\$2,185,083	\$2,314,826	\$0	\$0
GSF	\$0	\$1,240,000	\$1,605,000	\$1,970,000	\$2,134,000	\$2,238,000	\$2,331,400	\$2,427,482	\$0	\$0
Withdrawal Fees										
USF	\$831,734	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
GSF	\$0	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Deliveries (AF)										
Ad valorem										
USF	15,124	50,000	50,000	30,337	12,242	12,427	12,796	13,144	0	0
GSF	0	14,588	15,583	16,281	16,543	16,701	16,837	16,967	0	0
Withdrawal Fees										
USF	7,847	0	0	0	0	0	0	0	0	0
GSF	0	5,412	4,417	3,719	3,457	3,299	3,163	3,033	2,909	2,790
Total Deliveries	7,847	55,412	54,417	34,056	15,699	15,725	15,959	16,178	2,909	2,790
Unused Capacity ⁴		0	0	19,663	37,758	37,573	37,204	36,856	67,091	67,210
Annual Credits (AF)										
Ad valorem	14,065	60,067	60,992	43,354	26,770	27,089	27,559	28,003	0	0
Withdrawal Fees	7,297	5,033	4,108	3,459	3,215	3,068	2,942	2,821	2,705	2,594
Cumulative Credits (AF)										
Ad valorem	263,938	324,005	384,997	428,351	455,121	482,211	509,769	537,772	537,772	537,772
Withdrawal Fees	85,131	90,164	94,272	97,731	100,946	104,014	106,956	109,777	112,482	115,076
Percent Goal Achieved	31%	38%	45%	50%	53%	56%	59%	62%	62%	62%
Goal Including W/Fees ⁵	40%	48%	55%	61%	64%	68%	71%	75%	75%	76%

¹ Assumes 125,000 acre-feet total available to the AWBA. Balance available for Tucson is the total less estimated Pinal deliveries.

² Based on CAWCD's rate schedule adopted June 19, 2008 (2009-2014); 2015-2018 estimated; 3% annual increase used for water delivery rates.

³ Based on CAWCD's long-term planning estimates.

⁴ Water available for the Phoenix AMA. Water not used in Phoenix is available for Nevada.

⁵ 2009 does not include withdrawal fee credits accrued in 2008 because those credits are dedicated to Indian firming.

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

GSF Partner Cost Share - \$15/AF - 15 kAF capacity

Tucson AMA	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Goal 864,000										
Available Supplies (AF)¹	56,253	88,342	95,036	99,398	100,168	100,396	100,251	100,312	114,142	114,332
Capacity (AF)										
USF	24,124	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
GSF 15 kAF	0	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Costs/AF										
Water Delivery ²	82	100	118	136	144	149	153	158	163	168
Avg. USF storage fee ²	15	15	15	16	16	17	17	18	18	19
GSF Cost Share 15	0	15	15	15	15	15	15	15	15	15
Funding										
Ad valorem carryover	\$8,247,512	\$10,535,578	\$7,624,580	\$3,607,052	\$0	\$0	\$0	\$0	\$0	\$0
Ad valorem collected ³	\$3,744,508	\$3,636,502	\$3,715,722	\$3,901,508	\$4,096,584	\$4,301,413	\$4,516,483	\$4,742,308		
Withdrawal Fees	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Expenditures										
Ad valorem										
USF	\$1,456,441	\$5,732,500	\$6,643,250	\$6,143,561	\$2,607,584	\$2,733,413	\$2,877,433	\$3,030,196	\$0	\$0
GSF	\$0	\$815,000	\$1,090,000	\$1,365,000	\$1,489,000	\$1,568,000	\$1,639,050	\$1,712,112	\$0	\$0
Withdrawal Fees										
USF	\$831,734	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
GSF	\$0	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Deliveries (AF)										
Ad valorem										
USF	15,124	50,000	50,000	40,529	16,265	16,462	16,851	17,206	0	0
GSF	0	9,588	10,583	11,281	11,543	11,701	11,837	11,967	0	0
Withdrawal Fees										
USF	7,847	0	0	0	0	0	0	0	0	0
GSF	0	5,412	4,417	3,719	3,457	3,299	3,163	3,033	2,909	2,790
Total Deliveries	7,847	55,412	54,417	44,248	19,723	19,760	20,014	20,240	2,909	2,790
Unused Capacity ⁴		0	0	9,471	33,735	33,538	33,149	32,794	62,091	62,210
Annual Credits (AF)										
Ad valorem	14,065	55,417	56,342	48,183	25,861	26,192	26,679	27,131	0	0
Withdrawal Fees	7,297	5,033	4,108	3,459	3,215	3,068	2,942	2,821	2,705	2,594
Cumulative Credits (AF)										
Ad valorem	263,938	319,355	375,697	423,880	449,742	475,934	502,613	529,744	529,744	529,744
Withdrawal Fees	85,131	90,164	94,272	97,731	100,946	104,014	106,956	109,777	112,482	115,076
Percent Goal Achieved	31%	37%	43%	49%	52%	55%	58%	61%	61%	61%
Goal Including W/Fees ⁵	40%	47%	54%	60%	64%	67%	71%	74%	74%	75%

¹ Assumes 125,000 acre-feet total available to the AWBA. Balance available for Tucson is the total less estimated Pinal deliveries.

² Based on CAWCD's rate schedule adopted June 19, 2008 (2009-2014); 2015-2018 estimated; 3% annual increase used for water delivery rates.

³ Based on CAWCD's long-term planning estimates.

⁴ Water available for the Phoenix AMA. Water not used in Phoenix is available for Nevada.

⁵ 2009 does not include withdrawal fee credits accrued in 2008 because those credits are dedicated to Indian firming.

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

GSF Partner Cost Share - \$15/AF - 10 kAF capacity

Tucson AMA	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Goal 864,000										
Available Supplies (AF)¹	56,253	88,342	95,036	99,398	100,168	100,396	100,251	100,312	114,142	114,332
Capacity (AF)										
USF	24,124	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
GSF <input type="text" value="10 kAF"/>	0	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Costs/AF										
Water Delivery ²	82	100	118	136	144	149	153	158	163	168
Avg. USF storage fee ²	15	15	15	16	16	17	17	18	18	19
GSF Cost Share <input type="text" value="15"/>	0	15	15	15	15	15	15	15	15	15
Funding										
Ad valorem carryover	\$8,247,512	\$10,535,578	\$8,049,580	\$4,547,052	\$109,311	\$0	\$0	\$0	\$0	\$0
Ad valorem collected ³	\$3,744,508	\$3,636,502	\$3,715,722	\$3,901,508	\$4,096,584	\$4,301,413	\$4,516,483	\$4,742,308		
Withdrawal Fees	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Expenditures										
Ad valorem										
USF	\$1,456,441	\$5,732,500	\$6,643,250	\$7,579,250	\$3,361,894	\$3,403,413	\$3,569,783	\$3,745,567	\$0	\$0
GSF	\$0	\$390,000	\$575,000	\$760,000	\$844,000	\$898,000	\$946,700	\$996,741	\$0	\$0
Withdrawal Fees										
USF	\$831,734	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
GSF	\$0	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Deliveries (AF)										
Ad valorem										
USF	15,124	50,000	50,000	50,000	20,971	20,497	20,905	21,268	0	0
GSF	0	4,588	5,583	6,281	6,543	6,701	6,837	6,967	0	0
Withdrawal Fees										
USF	7,847	0	0	0	0	0	0	0	0	0
GSF	0	5,412	4,417	3,719	3,457	3,299	3,163	3,033	2,909	2,790
Total Deliveries	7,847	55,412	54,417	53,719	24,428	23,795	24,068	24,302	2,909	2,790
Unused Capacity ⁴		0	0	0	29,029	29,503	29,095	28,732	57,091	57,210
Annual Credits (AF)										
Ad valorem	14,065	50,767	51,692	52,341	25,587	25,295	25,800	26,259	0	0
Withdrawal Fees	7,297	5,033	4,108	3,459	3,215	3,068	2,942	2,821	2,705	2,594
Cumulative Credits (AF)										
Ad valorem	263,938	314,705	366,397	418,738	444,326	469,620	495,420	521,679	521,679	521,679
Withdrawal Fees	85,131	90,164	94,272	97,731	100,946	104,014	106,956	109,777	112,482	115,076
Percent Goal Achieved	31%	36%	42%	48%	51%	54%	57%	60%	60%	60%
Goal Including W/Fees ⁵	40%	47%	53%	60%	63%	66%	70%	73%	73%	74%

¹ Assumes 125,000 acre-feet total available to the AWBA. Balance available for Tucson is the total less estimated Pinal deliveries.

² Based on CAWCD's rate schedule adopted June 19, 2008 (2009-2014); 2015-2018 estimated; 3% annual increase used for water delivery rates.

³ Based on CAWCD's long-term planning estimates.

⁴ Water available for the Phoenix AMA. Water not used in Phoenix is available for Nevada.

⁵ 2009 does not include withdrawal fee credits accrued in 2008 because those credits are dedicated to Indian firming.

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

GSF Partner Cost Share - \$20/AF - 10 kAF capacity

Tucson AMA	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Goal 864,000										
Available Supplies (AF)¹	56,253	88,342	95,036	99,398	100,168	100,396	100,251	100,312	114,142	114,332
Capacity (AF)										
USF	24,124	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
GSF 10 kAF	0	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Costs/AF										
Water Delivery ²	82	100	118	136	144	149	153	158	163	168
Avg. USF storage fee ²	15	15	15	16	16	17	17	18	18	19
GSF Cost Share 20	0	20	20	20	20	20	20	20	20	20
Funding										
Ad valorem carryover	\$8,247,512	\$10,535,578	\$8,099,580	\$4,647,052	\$259,311	\$0	\$0	\$0	\$0	\$0
Ad valorem collected ³	\$3,744,508	\$3,636,502	\$3,715,722	\$3,901,508	\$4,096,584	\$4,301,413	\$4,516,483	\$4,742,308		
Withdrawal Fees	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Expenditures										
Ad valorem										
USF	\$1,456,441	\$5,732,500	\$6,643,250	\$7,579,250	\$3,561,894	\$3,453,413	\$3,619,783	\$3,795,567	\$0	\$0
GSF	\$0	\$340,000	\$525,000	\$710,000	\$794,000	\$848,000	\$896,700	\$946,741	\$0	\$0
Withdrawal Fees										
USF	\$831,734	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
GSF	\$0	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Deliveries (AF)										
Ad valorem										
USF	15,124	50,000	50,000	50,000	22,218	20,798	21,198	21,552	0	0
GSF	0	4,250	5,357	6,121	6,403	6,574	6,718	6,857	0	0
Withdrawal Fees										
USF	7,847	0	0	0	0	0	0	0	0	0
GSF	0	5,750	4,643	3,879	3,597	3,426	3,282	3,143	3,011	2,884
Total Deliveries	7,847	55,750	54,643	53,879	25,815	24,224	24,480	24,696	3,011	2,884
Unused Capacity ⁴		0	0	0	27,782	29,202	28,802	28,448	56,989	57,116
Annual Credits (AF)										
Ad valorem	14,065	50,453	51,482	52,192	26,618	25,456	25,962	26,420	0	0
Withdrawal Fees	7,297	5,348	4,318	3,608	3,345	3,187	3,052	2,923	2,800	2,682
Cumulative Credits (AF)										
Ad valorem	263,938	314,391	365,873	418,065	444,683	470,139	496,101	522,521	522,521	522,521
Withdrawal Fees	85,131	90,479	94,796	98,404	101,749	104,936	107,988	110,911	113,711	116,393
Percent Goal Achieved	31%	36%	42%	48%	51%	54%	57%	60%	60%	60%
Goal Including W/Fees ⁵	40%	47%	53%	60%	63%	67%	70%	73%	74%	74%

¹ Assumes 125,000 acre-feet total available to the AWBA. Balance available for Tucson is the total less estimated Pinal deliveries.

² Based on CAWCD's rate schedule adopted June 19, 2008 (2009-2014); 2015-2018 estimated; 3% annual increase used for water delivery rates.

³ Based on CAWCD's long-term planning estimates.

⁴ Water available for the Phoenix AMA. Water not used in Phoenix is available for Nevada.

⁵ 2009 does not include withdrawal fee credits accrued in 2008 because those credits are dedicated to Indian firming.

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

GSF Partner Cost Share - \$20/AF - 10 kAF capacity

Tucson AMA	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Goal 864,000										
Available Supplies (AF)¹	56,253	88,342	95,036	99,398	100,168	100,396	100,251	100,312	114,142	114,332
Capacity (AF)										
USF	24,124	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
GSF 10 kAF	0	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Costs/AF										
Water Delivery ²	82	100	118	136	144	149	153	158	163	168
Avg. USF storage fee ²	15	15	15	16	16	17	17	18	18	19
GSF Cost Share 20	0	20	20	20	20	20	20	20	20	20
Funding										
Ad valorem carryover	\$8,247,512	\$10,535,578	\$8,099,580	\$4,647,052	\$259,311	\$0	\$0	\$0	\$0	\$0
Ad valorem collected ³	\$3,744,508	\$3,636,502	\$3,715,722	\$3,901,508	\$4,096,584	\$4,301,413	\$4,516,483	\$4,742,308		
Withdrawal Fees	\$831,734	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Expenditures										
Ad valorem										
USF	\$1,456,441	\$5,732,500	\$6,643,250	\$7,579,250	\$3,561,894	\$3,453,413	\$3,619,783	\$3,795,567	\$0	\$0
GSF	\$0	\$340,000	\$525,000	\$710,000	\$794,000	\$848,000	\$896,700	\$946,741	\$0	\$0
Withdrawal Fees										
USF	\$831,734	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
GSF	\$0	\$460,000	\$455,000	\$450,000	\$446,000	\$442,000	\$438,000	\$434,000	\$430,000	\$426,000
Deliveries (AF)										
Ad valorem										
USF	15,124	50,000	50,000	50,000	22,218	20,798	21,198	21,552	0	0
GSF	0	4,250	5,357	6,121	6,403	6,574	6,718	6,857	0	0
Withdrawal Fees										
USF	7,847	0	0	0	0	0	0	0	0	0
GSF	0	5,750	4,643	3,879	3,597	3,426	3,282	3,143	3,011	2,884
Total Deliveries	7,847	55,750	54,643	53,879	25,815	24,224	24,480	24,696	3,011	2,884
Unused Capacity ⁴		0	0	0	27,782	29,202	28,802	28,448	56,989	57,116
Annual Credits (AF)										
Ad valorem	14,065	50,453	51,482	52,192	26,618	25,456	25,962	26,420	0	0
Withdrawal Fees	7,297	5,348	4,318	3,608	3,345	3,187	3,052	2,923	2,800	2,682
Cumulative Credits (AF)										
Ad valorem	263,938	314,391	365,873	418,065	444,683	470,139	496,101	522,521	522,521	522,521
Withdrawal Fees	85,131	90,479	94,796	98,404	101,749	104,936	107,988	110,911	113,711	116,393
Percent Goal Achieved	31%	36%	42%	48%	51%	54%	57%	60%	60%	60%
Goal Including W/Fees ⁵	40%	47%	53%	60%	63%	67%	70%	73%	74%	74%

¹ Assumes 125,000 acre-feet total available to the AWBA. Balance available for Tucson is the total less estimated Pinal deliveries.

² Based on CAWCD's rate schedule adopted June 19, 2008 (2009-2014); 2015-2018 estimated; 3% annual increase used for water delivery rates.

³ Based on CAWCD's long-term planning estimates.

⁴ Water available for the Phoenix AMA. Water not used in Phoenix is available for Nevada.

⁵ 2009 does not include withdrawal fee credits accrued in 2008 because those credits are dedicated to Indian firming.

Memorandum
Legal Division

TO: Rita Pearson, Director

THROUGH: Tim Henley, AWBA Manager

FROM: Chuck Cahoy, Deputy Counsel *CC*

RE: Use of AWBA Funds to Construct Storage Facilities/Use of
AWBA Funds "for the benefit" of the AMA

DATE: September 6, 1996

Tim has informed me that at a recent meeting in Tucson, he was asked about the likelihood of the AWBA using its funds to develop storage facilities in the Tucson area. There was particular interest in developing storage facilities that might be used by entities other than the AWBA. When it was stated that it was unlikely that the AWBA would construct facilities for the benefit of other entities, the question was raised of how, then, the AWBA would make full use of the funds that are dedicated to the Tucson area. Tim asked me to prepare a memo reviewing the relevant aspects of the AWBA Act on these issues for your review in the event that these questions arise at next week's AWBA meeting in Tucson.

As you will recall, the original concept for the AWBA was that it would act primarily as a business, not technical, enterprise. Any technical expertise needed by the AWBA was to be provided by CAWCD and the Department. The primary activity of the AWBA was to store water. Therefore, the only Underground Water Storage Program permit the AWBA is authorized to hold is a water storage permit.

In fact, the AWBA Act specifically states that the AWBA "may not own, develop, operate or construct storage facilities." A.R.S. § 45-2455(A). That statute goes on to allow the AWBA to enter into an agreement with the holder of a storage facility permit and to pay compensation for using those facilities, but only "to the extent that the storage facility is used to store water for the purposes of the Authority." A.R.S. § 45-2455(B). Thus, this language would prohibit the Authority from building storage facilities with AWBA funds if those storage facilities were to be used primarily for entities other than the AWBA.

This answer raised the second question in Tucson of how the money dedicated to their area could fully be used. Because Tucson finds it necessary to store all of their CAP allocation,

there may be little storage capacity left for the AWBA to use in the Tucson area.

Part of the answer to this question may come from the language in the statute that the groundwater withdrawal fees collected from the Tucson AMA must be used "for the benefit" of that AMA. Similarly, the 4-cent tax assessed by CAWCD for Pima County must be used "for the benefit" of that county. A.R.S. § 45-2457(B)(6) and (7). Thus, the statutes do not require the funds to be used to store water in the location in which the funds were raised, only that they ultimately benefit that area. It is possible for the water to be stored in a location other than Pima County if a way can be found to use the water for the benefit of that area. It may, therefore, be an overly narrow view of the legislation to conclude that the money raised for the Tucson area cannot fully be used if there is not sufficient capacity to store AWBA water in the Tucson AMA.

If there is strong sentiment in the Tucson area for the use of AWBA funds for the construction of storage facilities to be used by entities other than the AWBA, the issue might be reviewed by the AWBA Study Commission to determine if the legislation should be modified to allow for this activity.