

ARIZONA WATER BANKING AUTHORITY

WEDNESDAY, JANUARY 20, 1999

ARIZONA DEPARTMENT OF WATER RESOURCES

PLEASE PRINT

	NAME	REPRESENTING
1	KURT FRITSCH	Colorado River Comm. of Nevada
2	Richard Siegel	SRP
3	RON WONG	BKW
4	BARBARA GELHART for BOB LYNCH	IEDA
5	MaB Myers	METRO Water
6	Larry Dozier	CAP
7	KARL KOHLHOFF	CITY OF MESA
8	Jeff Johnson	SNOWA
9	JIM PETERSON	ORO VALLEY
10	Elizabeth Staker / Cynd Hamilton	CANR Senate Committee
11	Bob McCu	AM
12	Suzanne McInnes	House Research
13	PAUL ORME	CASD / MSFDD
14	Harold Goodman	City of Glendale
15	Harry Ruzgarian	MWOSC
16	Chuck Cullen	B-E
17	Rouie Cramer	Viverrone Farms
18	Jan Lanev	ASLD
19	B. TICKNER	
20	B Goldberg	Tucson
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Arizona Water Banking Authority

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

FINAL AGENDA

Wednesday, January 20, 1999

10:00 a.m.

Arizona Department of Water Resources

Third floor conference room

- I. Welcome/Opening Remarks
- II. Adoption of Minutes of December 16 Meeting
- III. Discussion of the 1998 Plan of Operation and Staff Activities
- IV. Election of Water Banking Authority's Vice Chairman and Secretary
- V. Legislation Update
- VI. Interstate Discussions
- VII. Call to the Public

Future Meeting Dates:

Wednesday, February 17, 1999

Wednesday, March 17, 1999

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

ARIZONA WATER BANKING AUTHORITY
Draft Minutes



December 16, 1998
Arizona Department of Water Resources

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

EX OFFICIO MEMBERS
Senator Pat Conner
Rep. Bill McGibbon

Welcome/Opening Remarks

All members of the Authority except Grady Gammage, Jr. were present. Chairperson Rita Pearson chaired the meeting.

Minutes

The November 18th minutes were approved as submitted.

Plan of Operation and Other Staff Activities

Tim Henley, Manager of the AWBA, stated that AWBA deliveries for the year will amount to approximately 200,000 acre feet.

Mr. Henley also updated the Authority members on the status of the SRP/AWBA Exchange Agreement approved at last month's meeting. The application for an exchange permit has been filed, and the Agreement will be in force when the permit is issued.

At last month's meeting, the AWBA approved a modified agreement with Tucson Water for water storage at CAVSARP in the Tucson AMA. Because the new agreement was not presented to the Tucson City Council at the December meeting, the agreement will not go into effect until after the January Tucson City Council meeting where the agreement is expected to be approved.

1999 Plan of Operation

Tim Henley provided an overview of the final 1999 Plan of Operation. He stated that the revised Plan reflects many of the suggested changes submitted by various members of the water community, including the three GUACs. Since one of the facilities included in the Plan is outside of the AMA and is located in La Paz County, the AWBA staff also attended the La Paz County Board of Supervisors meeting to present the Plan. Several comments were received, and the Plan has been updated to include some of the public comments. Three letters of comments were received on the Plan from the CAP, the Tucson GUAC and from Metro Water in Tucson. All public comments were generally supportive of the AWBA.

The Authority approved the Plan as proposed.

Study Commission -- Final Report Presentation

Herb Dishlip provided a detailed overview of the Final Report of the AWBA Study Commission. The Final Report will be available on the AWBA's web page by early January.

Mr. Henley provided an overview of the AWBA's proposed legislation that would add new powers and duties to the AWBA's existing powers and duties. A copy of the proposed legislation is included in the Final Report and will also be posted on the AWBA's web page.

The Final Report contains an abbreviated version of the Study Commission's Interim Report and focuses in more detail on recommendations.

Some of the critical background material included in the report is the Laws and Relevant Contract Provisions pertaining to the Colorado River and the Central Arizona Project. The report also looks at other states' water banking efforts. This gave the study commission members ideas about what the AWBA could accomplish. The Study Commission made two kinds of recommendations; a series of advisory recommendations, and a series of recommendations to the Legislature

to either modify or enhance the powers and duties of the study commission. The Study Commission's Final Report was adopted.

Mr. Henley presented a summary of the proposed legislation. Members of the Authority and the public had the opportunity to comment and to ask questions. Chairperson Pearson informed those present that comments and recommendations on the proposed legislation would be considered if submitted within the next weeks.

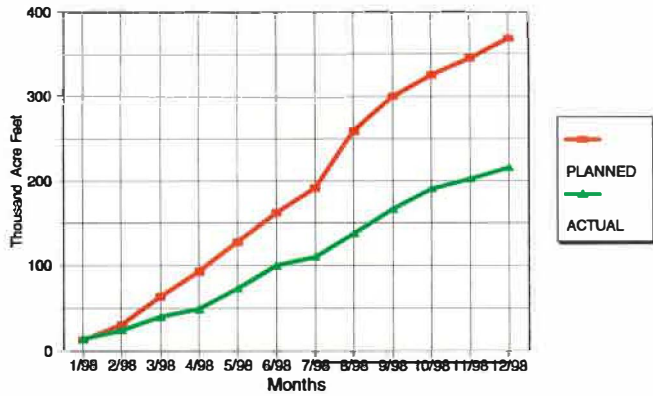
Chairperson Pearson also requested a work session/public meeting on the long-term storage credit lending provision included in the proposed legislation. A meeting will be set up for early January and the public is welcome to attend to learn more detailed information about this particular aspect of the legislation.

Call to the Public

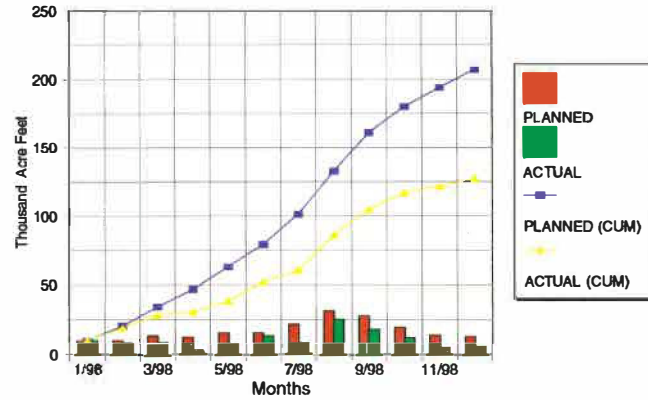
The next Authority meetings are scheduled for January 20 and February 17. The meeting was adjourned at 11:30 a.m.

1998 PLAN OF OPERATION

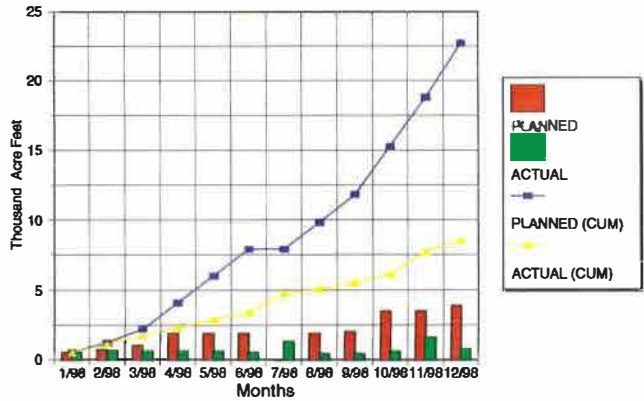
CUMULATIVE DELIVERIES (by Month)
Planned vs. Actual



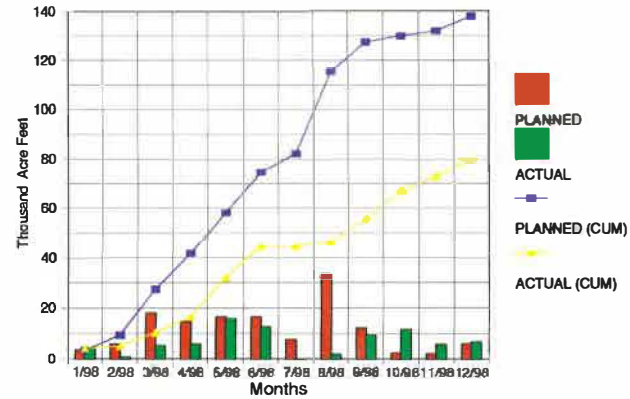
PHOENIX AMA DELIVERIES (by Month)
Planned vs. Actual



TUCSON AMA DELIVERIES (by Month)
Planned vs. Actual



PINAL AMA DELIVERIES (by Month)
Planned vs. Actual



1998 PLAN OF OPERATION BY ENTITY

Actual deliveries updated 14-Jan-99

	jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	dec	total	
Phoenix AMA														
GRUSP	8,032	8,551	6,711	0	5,237	5,904	5,595	6,325	5,910	3,996	259	1,376	57,896	GRUSP
RWCD	0	0	0	0	0	0	0	0	0	0	0	0	0	RWCD
NMIDD	2,233	286	0	0	0	4,959	271	12,811	7,390	4,670	2,546	2,386	37,552	NMIDD
QCID	0	0	0	0	0	0	0	3,589	3,536	1,782	1,127	2,049	12,083	QCID
MWD	0	0	2,373	2,399	2,701	2,604	2,665	2,866	1,748	1,796	848	0	20,000	MWD
CHCID	0	0	0	0	22	0	0	0	0	0	0	16	38	CHCID
TID	0	0	0	0	0	0	0	0	0	0	0	0	0	TID
Subtotal	10,265	8,837	9,084	2,399	7,960	13,467	8,531	25,591	18,584	12,244	4,780	5,827	127,569	
Pinal AMA														
CAIDD	0	0	0	0	0	0	0	0	323	2,837	2,199	2,689	8,048	CAIDD
MSIDD	2,430	0	0	0	8,792	3,221	0	1,799	5,730	6,708	2,915	1,690	33,285	MSIDD
HIDD	1,819	708	5,284	5,905	6,901	9,302	0	0	3,461	1,900	812	2,296	<u>38,388</u>	HIDD
Subtotal	4,249	708	5,284	5,905	15,693	12,523	0	1,799	9,514	11,445	5,926	6,675	79,721	
Tucson AMA														
Avra Valley	0	0	0	0	0	0	675	374	318	576	900	394	3,237	Avra Valley
CAVSARP	531	579	576	597	600	537	652	54	57	0	420	0	4,603	CAVSARP
Pima Mine	0	0	0	0	0	0	0	0	0	0	300	435	735	Pima Mine
Lower Santa Cruz	0	0	0	0	0	0	0	0	0	0	0	0	0	L. Santa Cruz
Subtotal	531	579	576	597	600	537	1,327	428	375	576	1,620	829	8,575	
TOTAL	15,045	10,124	14,944	8,901	24,253	26,527	9,858	27,818	28,473	24,265	12,326	13,331	215,865	

REFERENCE TITLE: water banking amendments

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

H. B. 2463

Introduced by Griffin, McGibbon

AN ACT

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

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

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

4 45-2401. Declaration of policy and purpose

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 45-2402. Definitions

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

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

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

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

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

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

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

30 (a) STORAGE OF WATER.

31 (b) OBTAINING WATER STORAGE PERMITS.

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

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

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

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

39 45-2423. Powers and duties of authority

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

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

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

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

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

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

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

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

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

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

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

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

23 1. Apply for and hold water storage permits.

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

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

28 4. ENTER INTO WATER BANKING SERVICES AGREEMENTS.

29 5. CHARGE FEES FOR WATER BANKING SERVICES.

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

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

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

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

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

1 ~~(e)~~ (d) Store Colorado river water at permitted storage facilities.
2 ~~(d)~~ (e) Distribute long-term storage credits earned by the authority
3 to make water available to municipal and industrial users of Colorado river
4 water in this state that are inside or outside of the CAWCD service area, in
5 accordance with the provisions of this chapter.

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

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

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

17 ~~5-~~ 8. Sue and be sued.

18 ~~6-~~ 9. Perform all other acts necessary for the authority to carry out
19 its purposes, powers and duties in accordance with this chapter.

20 ~~7-~~ 10. Submit a request for a general fund appropriation to the
21 legislature each year. A request shall be accompanied by a budget detailing
22 how the appropriation would be used and justifying the need for the
23 appropriation.

24 11. FORM TEMPORARY COMMITTEES AS DEEMED NECESSARY BY THE AUTHORITY TO
25 PROVIDE THE AUTHORITY WITH ADVICE ON ISSUES IDENTIFIED BY THE AUTHORITY.
26 ADVISORY COMMITTEES MAY CONSIST OF MEMBERS OF THE PUBLIC SELECTED BY THE
27 AUTHORITY, MEMBERS OF THE AUTHORITY AND AUTHORITY STAFF.

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

29 45-2425. Arizona water banking fund

30 A. The Arizona water banking fund is established. The state treasurer
31 shall establish subaccounts of the banking fund based on funding sources.
32 The authority shall administer the BANKING fund in accordance with this
33 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 6. The monies available from the banking fund.

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

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

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

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

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

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

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

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

23 1. A projection of expenditures for acquiring water.

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

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

30 4. A projection of expenditures for water storage.

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

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

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

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

1 ~~8-~~ 9. Any other matter determined to be relevant by the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 45-2458. Water banking services agreements

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

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

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

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

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

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

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

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

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

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

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

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

35 1. THE COST OF ACQUIRING WATER.

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

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

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

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

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

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

16 48-3715. Tax levy

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

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

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

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

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

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

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

**Secretary's Remarks to
Colorado River Water Users Association
Las Vegas, December 17, 1998**

Today marks the fourth year that I have joined you at this annual meeting to review our progress on managing the Colorado River. As in past years, I am pleased to report considerable progress toward our common goal of more efficient use of our shared water resource. Indeed it has been a remarkable year, perhaps the most significant on the River in many decades, for we are now on the threshold of resolving some of the most intractable and elusive issues that bring us to these meetings.

Each year I have stressed two overarching themes that should always inform our efforts: 1) The desirability of resolving water controversies through stakeholder consensus; and 2) the importance of conservation and consensual water transfers and similar transactions. And we have made progress in these areas as well.

Last year, I discussed steps necessary to bring California into line with its entitlement under the Colorado River compact. At the same time, California issued its draft "4.4 Plan", which set the stage for a series of developments designed to implement that plan. And in the last year California has made impressive progress toward the 4.4 goal, which I would now like to review in some detail.

In April of this year, the San Diego County Water Authority and the Imperial Irrigation District executed a water conservation and transfer agreement that provides the means for an ag-to-urban transfer of increasing amounts of water, rising to potentially as much as 300,000 acre-feet per annum. While that arrangement is subject to a variety of state and federal requirements, the essential transaction between San Diego and the IID is one important building-block of the 4.4 Plan. This is in addition to the 1988 MWD/IID agreement, under which the Met is entitled to up to 106,000 acre-feet per year of conserved ag water pursuant to a contract whose conservation measures I understand to have been fully implemented within the last year.

A second important element of the Plan was advanced when San Diego and the Metropolitan Water District reached an agreement that will permit the transferred water to be delivered to San Diego via an exchange agreement.

The 4.4 Plan took yet another step forward when the State of California appropriated \$235 million to underwrite the lining of the All-American and Coachella Canals, and to implement groundwater conjunctive use programs, which will provide close to 100,000 acre-feet per year of conserved water, out of which both the San Luis Rey settlement can be implemented, and additional water will be provided to the Met. Met has opened discussions with the San Luis Rey

settlement parties to explore potential arrangement for delivering and/or exchanging 16,000 af of conserved canal lining water for the San Luis Rey tribes; as trustee for Indian tribes I attach great importance to completing this settlement.

When each of these elements is in place, Phase 1 of the California Plan will be ready for implementation, and California will be half-way to its 4.4 maf goal. I recognize the very considerable expenditure, both in human and economic terms, that the State of California has invested in moving the Plan forward, and I want to take this occasion to express my appreciation to California—with special thanks to the retiring Water Resource Department Director Dave Kennedy—for that effort.

As I emphasized in my presentation last year, however, the proposed IID/San Diego transfer and other ag-to-urban transfers of water in California cannot go forward unless and until the relative water rights of the Imperial Irrigation District and the Coachella Valley Water District are quantified, so that transfers can take place from a clear and settled baseline. I don't think anyone would contradict me if I characterized the traditional relationship between Coachella and Imperial as contentious. During the past several months, we, with the cooperation of the State, have engaged the two agencies in intensive negotiations designed to bring about a mutually agreeable quantification, that would convert the legacy of the 7-Party Agreement into clear, quantified water rights for each District.

I am very pleased to be able to announce that those negotiations bore fruit yesterday, when the negotiating teams for Imperial, Coachella, and the Department executed a Memorandum of Understanding that adopts a fundamentally new approach to quantifying the Districts' water rights, and which sets the stage for transfers to occur, and for an ag-to-urban water market to develop. The MOU establishes a conceptual agreement among the parties, and it anticipates that additional details and refinements will be worked out during a six-month "finalization" period. While the MOU reorders the relationships between Imperial and Coachella—the primary roadblock to transfers—I also am pleased to report that the Met has committed itself to engage actively in negotiations relating to unresolved issues during the six-month IID/Coachella MOU "finalization" period. As Winston Churchill might have said, "This is not the end. It is not even the beginning of the end. But it may well be the end of the beginning." Considering the intensity that marks the Colorado River water wars, I would classify the progress to date as a minor miracle. We shall keep the pressure on.

While the full terms of the quantification are still subject to finalization and are in some respects highly detailed, in basic outline it is essentially as follows.

- IID and Coachella will quantify between themselves their share of the third priority under California's 7-Party Agreement. The first two priorities, the Palo Verde Irrigation District and the Yuma Project, will remain unchanged.
- If the first two priorities take more water than anticipated, causing the total agricultural

entitlement to exceed its 3.85 maf limit, IID and Coachella will absorb the shortage on a 90/10 basis.

- IID's entitlement will be capped at 3.1 maf, and will include water to be transferred to Met, Coachella and San Diego, ultimately leaving a net diversion entitlement to the IID of approximately 2.7 maf.

- Coachella's entitlement will be capped at 468,000 acre-feet, composed of its historical use of 330,000 acre-feet plus water to be transferred and conserved under the plan.

- Other elements of the negotiation are a "peace" agreement between the two agencies not to challenge each other's water practices, and an expectation that the Met will build a conjunctive use facility in the Coachella Valley.

- The districts will also agree to support the implementation of surplus guidelines designed to provide reasonable assurance that Met's aqueduct is kept full through 2015.

I am very impressed that Imperial and Coachella have at last discovered their fraternal bonds and negotiated such an impressive quantification approach. I personally want to extend my thanks to the negotiating teams for the two Districts and to the heads of the respective District boards who have participated in all the intensive discussions that led up to the MOU-Tellis Codekas of Coachella and Lloyd Allen of Imperial. These folks have stepped up to the plate and delivered, and I commend them for their accomplishment and the onset of a new era of goodwill and mutual cooperation.

A next important step involves the Met, holder of the next California priority under the 7-Party Agreement. Before signing on, Met is waiting for the final piece of the California Plan puzzle to fall into place. Its concerns about river operations are entirely appropriate and timely. And that brings me to the matter of surplus guidelines. The draft California 4.4 Plan anticipated a first phase, under which California's need for Colorado River water would be reduced to 4.8 maf by 2015. During that time period, California has anticipated that the State would continue to be reliant on some available surplus in order to keep its aqueduct full. It is now time to move forward with this concept. I am prepared, as these other elements of the California Plan proceed toward finalization and implementation, to put into effect surplus guidelines that address Met's need to maintain a full aqueduct during this period, subject to the following provision: as a condition for continued implementation of the surplus guidelines, California must meet a series of benchmarks we will identify, to be monitored by the Bureau of Reclamation, designed to prevent backsliding and assure that Phase 1 is being regularly implemented on a schedule that will step-by-step reduce California's call on the Colorado River to 4.8 maf or less by 2015.

As to the substance of the surplus guidelines, I am aware of the proposal prepared by six of the seven basin states dated December 4th. On this issue, as on others, I reiterate my preference that all the basin states search for a recommendation on which they can agree. In light of California's

needs, and the restrictions relating to surplus in Article II(B)2 of the Supreme Court decree in *Arizona v. California*, it would be particularly helpful for California to engage with the other basin states in an effort to find common ground. The time is now right for California and the other states to work together to negotiate surplus guidelines that will adequately recognize the achievement implicit in the steps California is taking in reducing its reliance on the Colorado River by providing assurances that Met's aqueduct can remain full during the intensive period of conservation that lies ahead. I have asked Reclamation to develop proposed guidelines using an open public process within the next six month period coinciding with the six month "finalization" period established for the IID/Coachella MOU. If the states are unable to agree within that time frame, I shall exercise my responsibility and issue surplus guidelines, giving due regard to the views expressed by the various basin states.

Next, I would like to report to you on the status of the proposed rule for off stream storage of Colorado River water and interstate transfers in the lower division states. As you know, the genesis of this rule was the enactment of an Arizona law providing for the possibility to store otherwise unused water in Arizona pursuant to interstate storage agreements, so that such water could subsequently be used to generate intentionally created unused Arizona apportionment that could be made available to entities in other states that had entered into interstate storage agreements. The Arizona law provided that it would become effective only upon the promulgation of a state-certified federal rule authorizing such transactions. I have viewed this plan as a highly desirable means to meet some of Nevada's incipient need for additional Colorado River water, and I instructed the Bureau to move forward with development of such a rule as promptly as possible.

A proposed rule was published in the Federal Register on December 31st of last year, and I anticipated issuing a final rule sometime toward the end of last Summer. As is the case with virtually everything relating to the Colorado River, certain elements of this proposed rule generated extensive commentary, and in order to assure that all views were adequately heard and considered, I re-opened the comment period until October 21st of this year. At the present time only one issue remains unresolved, a matter relating to the contracting requirements under the Boulder Canyon Project Act. We are continuing to work toward a resolution of that matter. I am hopeful that a mutually agreeable solution will be found, and that the final rule can soon be issued. In that regard, however, I want to emphasize the very great importance I attach to finding a means to meet Nevada's legitimate needs, and to make clear that if we cannot find a resolution of the problem surrounding the off stream storage rule, I shall be looking at other possibilities for meeting those needs.

I need to say a final word about a related topic: the Salton Sea. In October, Congress passed the Salton Sea Reclamation Act of 1998. For the most part, the Act codifies actions the Administration already has underway to address the environmental problems in the Salton Sea, including the initiation of a formal analysis of remedial alternatives under the National Environmental Policy Act. Section 101(b)(3) states: "In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water

conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet per year.”

As I have emphasized today, we are working closely with California entities on many fronts to make ag-to-urban transfers a reality. But I will simply point out the obvious – that identifying a workable, realistic and affordable way to manage the Salton Sea will be a very complex task.

All in all, though we are not at the end of the road, we have come a long way, and we have done so on the basis of negotiation designed to achieve consensus. I continue to be committed to the idea that consensus is the best way to administer this river. But to find common ground requires a willingness to accommodate. I believe we can find such ground on each of the remaining issues that I have discussed, so that every state and every entitlement holder can win, but with no winner-take-all. I prefer to be the facilitator of success and not the river-master issuing dictates from afar. I hope that, in the remaining time on my watch, we can continue and accelerate our work in the spirit of friendship and cooperation that has already produced so much progress.