

ARIZONA WATER BANKING AUTHORITY
Wednesday, June 17, 2009

	Name (Please print)	Affiliation	Phone No.
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3	Beth Miller	Scottsdale	
4	LAWRENCE MARQUEZ	RECREATION	623-773-6213
5	PAUL DRANE	CADON/INSTON	623-465-0445
6	Michael Block	Metro Water	520-575-8160
7	Bob Sejkora	AZ State Parks	602-542-7157
8	William Rinne	SUNVA NV	702-939-9390
9	JEFF EHLERS	SRP	602236-5504
10	DEE FURST	CAP	623-849-2807
11	JOCELYN GIBBON	SS&D	602-528-4098
12	Jim Pierson	Gila River	520-562-9760
13	Richard Morrison	Salmon, Lewis & Weldon	602-524-5757
14	Gary M. GIN	City of Phoenix	602-495-5654
15	Larry Dozier	CAP	
16	Juliet McKenna	Montgomery Associates	
17	John Bodenohuk	ADWR	(520) 770-3817
18	Walter Koggs	DWR GRIC	796-1344
19	Steve Turce	Senate	562
20	Aun Marie Chischully	GRIC	520 770 9760
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ARIZONA WATER BANKING AUTHORITY
Wednesday, June 17, 2009

	Name (Please print)	Affiliation	Phone No.
1	DOUG KUPEL	City of Phoenix	602-495-5853
2	Wally Wilson	Tucson WATER	520 837 2239
3	Joe Korica	Tucson Water	520 - 837 - 2238
4	Kathy Kall	GLBERT	
5	Brian Hennick	CAP	623-868-2567
6	Gary Givert	CAP	623 869-2158
7	Doc Dunlop	CAP	623-868-2366
8	Bill Staudenmaier	Ryley Carlock	602-440-4830
9	Chris Udell	ABC	480-558-5301
10	Brian Bennon	GRFC	520 796-1344
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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 Wednesday, June 17, 2009 at 10:00 a.m. at the Arizona Department of Water Resources, 3550 North Central Avenue, Phoenix, Arizona 85012, Upper Verde Conference Room. The meeting is open to the general public.

Dated this 16th day of June, 2009

FINAL AGENDA

Arizona Water Banking Authority Commission Meeting

- I. Welcome/Opening Remarks
- II. Approval of Minutes
 - April 1, 2009 meeting
 - April 28, 2009 meeting
- III. Water Banking Staff Activities
 - Deliveries
 - ADWR Water Assessment
 - Proposed Legislative Transfers
 - Update on CAVSARP/SAVSARP Water Storage Agreement
 - ICUA certification for 2008
 - CAWCD *ad valorem* tax levy
 - Update on Indian Water Rights Settlements
- IV. CAWCD Policy for Access to Excess
- V. 2008 Annual Report
 - Overview of 2008 Annual Report
 - Discussion regarding Ten-Year Plan 2010-2019
 - Potential approval of 2008 Annual Report and Ten-Year Plan
- VI. FY 2010 Administrative Budget
 - Overview of FY 2010 administrative budget
 - Potential adoption of FY 2010 administrative budget

- VII. Potential approval of the Chairman to sign the Intergovernmental Agreement between the AWBA and the GRIC
- VIII. Differential Pricing for GSFs in Tucson AMA
- IX. Interstate Water Banking
 - Overview
 - Discussion and potential approval of the AWBA Policy Guidance Statement #1 establishing guidelines for the Authorized Representative for the AWBA
 - Discussion and potential submittal of a Draft Third Amended Agreement for Interstate Water Banking to the SNWA and CRCN
 - Update on staff discussion with CAWCD on meeting Nevada obligation
 - Overview of interstate accounting and firming obligation
- X. Call to the Public

Future Meeting Dates:

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.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹

April 1, 2009
Arizona Department of Water Resources



AUTHORITY MEMBERS
Herbert R. Guenther, Chairman
Maureen R. George, Vice-Chairman
Tom Buschatzke, Secretary
John Mawhinney
Lisa A. Atkins

EX OFFICIO MEMBERS
The Honorable Steve Pierce
The Honorable Kirk Adams

Welcome/Opening Remarks

Chairman Herb Guenther welcomed the attendees. All members of the Authority were present except for Tom Buschatzke and *ex-officio* members, Senator Robert Burns and Representative Kirk Adams. He welcomed Lisa Atkins as the new Commission member who replaces Gayle Burns as the Central Arizona Water Conservation District (CAWCD) Board member designated by Susan Bitter Smith, President of the CAWCD Board of Directors. Chairman Guenther noted that staff and the Commission appreciated Ms. Burns' contributions to the AWBA and also looked forward to working with Ms. Atkins. Chairman Guenther also commented that Senator Robert Burns and Representative Kirk Adams were the newly elected President and Speaker of the House of Representatives, respectively, and that they would be contacted to confirm if they will be designating others to represent them as the AWBA's *ex-officio* members.

Chairman Guenther informed the Authority that negotiations on the fiscal year (FY) Legislative 2010 budget were ongoing, but that under the draft proposed budget, Arizona Department of Water Resources (ADWR) would experience a 60 percent cut to its base general fund appropriation. This is much higher compared with other state agencies whose reductions have averaged 20 percent.

Approval of Minutes of December 10, 2008 and January 7, 2009 Meetings

The Authority approved the minutes of the December 10, 2008 and January 7, 2009 meetings.

Staff Activities

Virginia O'Connell provided an overview of AWBA water deliveries for calendar year 2008. Deliveries were nearly 217,000 acre-feet and did not include storage for interstate purposes. Water deliveries for 2009 are on track. Ms. O'Connell also reviewed the recovery schedule for developing Intentionally Created Unused Apportionment (ICUA) for the Metropolitan Water District of Southern California (Metropolitan). In 2008, CAWCD recovered and exchanged 27,442 and 1,000 acre-feet of long-term storage credits (credits), respectively, for a total of 28,442 acre-feet. After ADWR reviews the annual water use reports, which were due March 31, 2009, ADWR will notify AWBA verifying the amount of credits recovered and/or exchanged. The AWBA will then certify the amount of ICUA created in 2008. For 2009, CAWCD plans to recover 30,000 acre-feet of credits. Recovery through February is ahead of

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.

schedule.

Kim Mitchell updated the Authority on legislative transfers under Senate Bill 1001. The Legislature will transfer an additional \$12.6 million from the Arizona Water Banking Fund (AWB Fund) for FY 2009. Of that amount, \$9.2 has already been transferred to the general fund, \$387,300 is pending, and the remaining \$3 million will be appropriated to ADWR as needed. Ms. Mitchell noted that total legislative fund transfers for FY 2009 were \$25 million, with \$14.7 going to the general fund and \$9.9 million going to ADWR.

Ms. Mitchell informed the Authority that staff had been responding to numerous informational requests from the Joint Legislative Budget Committee (JLBC) staff concerning funds available in the AWB Fund. Detailed information was provided on estimated revenues, expenditures, and transfers through FY 2010 to resolve issues on available fund balances. Ms. Mitchell noted that she also had in depth conversations with Kathi Knox and Tony De Marco (legislative analysts) concerning budget transfers, the AWBA's obligations, and funding sources used to meet those obligations.

Ms. Mitchell reviewed a spreadsheet that identified monthly activity in the AWB Fund subaccounts and the estimated ending balances for FY 2009. She noted the legislative transfer was from the Nevada subaccount since it was the only account with sufficient funds to cover the transfer amount. Approximately \$4.1 million will subsequently be replaced through internal fund transfers from the withdrawal fee subaccounts so that impacts to the Nevada subaccount are minimized. This will leave the withdrawal fee subaccounts at or near zero with the exception of the Tucson AMA subaccount, where \$670,000 will be retained to develop Indian firming credits needed to meet the State's Indian firming obligation to the Secretary of the Interior (Interior). The Indian firming subaccount will have a zero ending balance and the Nevada subaccount will have a remaining balance of approximately \$5.6 million, which includes expenditures of approximately \$5.2 million for water purchases. Chairman Guenther clarified that the funds in the Nevada subaccount are from the \$100 million that Nevada had provided to Arizona as insurance for meeting its contract obligation. About \$20 million had been remaining before the sweep occurred. Tim Henley pointed out that the administrative subaccount is based on interest from other funds and that it had enough funds to meet roughly one year of administrative costs. This account will not build up over time, as is normally the case, because there is no money left in those other funds.

Ms. Mitchell noted that the legislative amendment the AWBA has been pursuing, which would allow the AWBA to participate in pools created by CAWCD, is still on hold. Chairman Guenther has been registered as the AWBA's Designated Public Lobbyist for the legislation because his position as Chairman is a statutory appointment. The three appointed Commission members are exempt from registration and are free to lobby on behalf of AWBA issues. Ms. Mitchell commented that Gregg Houtz and she have both been registered as Authorized Public Lobbyists, subordinate to the Designated Public Lobbyist.

In December, the Authority approved the renewal of two agreements. Ms. Mitchell noted that both of these agreements, the intergovernmental agreement (IGA) between ADWR, AWBA, and CAWCD and the Water Storage Agreement between the AWBA and the Gila River Indian Irrigation and Drainage District (GRIIDD), have been fully executed.

Ms. Mitchell commented that staff had attended several meetings since December. There were two meetings with the Southern Nevada Water Authority (SNWA) to discuss recovery coordination and modifications to the interstate agreement. There was a meeting with Steve Wene and Tom Griffin, who represent the Mohave County Water Authority (MCWA), to discuss proposed amendments to the Agreement to Firm Future Supplies (Agreement to Firm). With regard to the proposed AWBA legislation, staff met with Senator Nelson, Chairman of the Natural Resources, Infrastructure and Public Debt Committee, to provide greater detail on the AWBA's draft legislation. Senator Nelson had agreed to sponsor the proposed legislation. Dr. John Ward, an economist with a government research group from Adelaide, Australia met with staff to discuss the fundamental principles of the AWBA, problems encountered and successes. Staff also attended CAWCD's Access to Excess meeting in February. Another stakeholder workshop was scheduled for 1 p.m. after today's AWBA meeting. Lastly, staff met with Tim Pierson (legal counsel for the Gila River Indian Community (the Community) and Gene Franzoy (Consultant for the Community) to discuss the draft IGA between the AWBA and the Community for replenishment.

John Mawhinney stated for the record that he did not want to wait until January next year to update the Legislature on AWBA activities.

Amended 2009 Plan of Operation

Kim Mitchell briefed the Authority on proposed changes to the 2009 Plan of Operation (Plan), which included additional water supplies and a change in class of a portion of the deliveries originally scheduled. She stated that Tucson Water had turned back 42,000 acre-feet of CAP subcontract water for remarket. Of that amount 15,124 acre-feet had been made available to the AWBA, which has been scheduled for the CAVSARP facility in Tucson. In addition, a total of 25,000 acre-feet of deliveries to the Pinal AMA have been reclassified as interstate deliveries since withdrawal fees are no longer available. Expenditures from the Nevada subaccount will be approximately \$5.2 million. Since the AWBA reclassified these deliveries as interstate, which has a higher rate than incentive priced water, CAWCD was also able to recover costs associated with Tucson Water's subcontract water, thus allowing for the delivery of incentive priced water to the CAVSARP facility. Furthermore, of the 5,000 acre-feet of deliveries that had been scheduled for the Pinal AMA portion of the GRIIDD Groundwater Savings Facility (GSF), 4,000 acre-feet were shifted to the Phoenix AMA portion of the GSF and the remaining 1,000 acre-feet is anticipated to be delivered for the purpose of establishing the Southside Replenishment Bank. This is the statutory minimum that must be delivered until the 15,000 acre-feet maximum has been met. The AWBA is limited to utilizing withdrawal fees for this purpose. All deliveries to the Phoenix AMA will be paid utilizing Maricopa *ad valorem* tax funds, thus storage that had been intended for

meeting the State's Indian firming requirements was shifted to M&I firming.

Mr. Mawhinney requested that staff provide a visual comparison that illustrates the net effect of the legislative sweeps on AWBA operations. Brian Betcher (Maricopa-Stanfield IDD) suggested that the visuals include the withdrawal fees that were submitted to ADWR by the irrigation districts and other groundwater users in association with ADWR's Annual Reports and to show how the outcome of those funds will impact the future. Gary Gin (City of Phoenix) commented that he would have preferred prior discussion regarding the additional supplies because he would have suggested a more equal distribution of the water so all AMAs could benefit. Ms. Mitchell clarified that when the AWBA receives additional water, it is the Commission that decides where that water will be delivered. There are different dynamics and limiting factors that must be considered. In this instance, there were two main factors. First, there was capacity available in Tucson because it was where the water had originated and funding was also available. While funding is available in Phoenix, capacity is limited. Second, storage in Tucson would move that AMA closer to the firming goal, which is behind in comparison with the other AMAs.

Ms. Atkins made a motion to adopt the Amended 2009 Plan with minor editorial changes. Mr. Mawhinney provided the second to that motion. The motion carried.

Interstate Water Banking

Ms. Mitchell noted that at the last meeting in January, the Commission agreed to toll the performance dates of the Amended Agreement for Interstate Water Banking for 90 days, while formal changes to the agreement were considered. The only performance date was the January 10th date requiring Nevada to make a payment of \$23 million to the Operating account. Nevada had asked for flexibility in making the payment for fiscal reasons and because the AWBA had not included interstate deliveries in its 2009 Plan of Operation. Ms. Mitchell briefed the Authority on the subsequent Second Amended Agreement for Interstate Water Banking (Second Amended Agreement) and stated that both the SNWA and the Colorado River Commission of Nevada (CRCN) had approved the agreement at their Board meetings on March 19th and March 31st, respectively. Jennifer Crandell (Senior Deputy Attorney General, Nevada) confirmed passage of the Second Amended Agreement and noted that it had been mailed via overnight delivery.

Ms. George stated she had concerns with Section 5.2 because it did not specify who the authorized representative (AR) is, and more importantly, because it refers to main sections when identifying the provisions that may be changed by the AR rather than the specific subsections, leaving the impression that other subsections could be amended. For example, the intent of the amendment was to change how payments are received, not what payments are due and the price that SNWA will pay. Ms. Mitchell commented that the AR was not identified so that provisions of the Second Amended Agreement that are routine in nature could be accomplished by someone other than the Chairman. It would allow the AR to respond quickly when additional supplies become available. Mr. Henley suggested defining the duties of any authorized AWBA representative in a resolution and either revising Section 5.2 by referencing the specific subsections, or by omitting Section 5.2 altogether and adding

the amendments directly into the subsections. Ms. Crandell commented that the CRCN Board had been informed that there were no substantive changes to the Second Amended Agreement and that the amounts to be paid remained the same. Tom Maher (SNWA) noted that there were no fiscal impacts associated with SNWA's payments. The amendments were meant to add operational flexibility and to update language concerning recovery and ICUA to reflect current conditions. Mr. Mawhinney inquired if there were operational reasons for the annual recovery amounts and if more could be recovered if needed. Mr. Henley responded that the recovery volumes were limits placed on SNWA, but that if both parties had the opportunity to do more, the AR would have the ability to allow the changes. Chairman Guenther suggested approving the Second Amended Agreement as is with the understanding that a revised draft be presented at the June meeting, thereby avoiding issues with the 90-day tolling deadline. Ms. Atkins agreed noting she would prefer specifics on the AR's responsibilities. Rich Siegel (Salt River Project) noted that the powers of an AR are typically very limiting. He suggested including a provision that clearly defines what those powers and limitations will be. He also suggested including definitions for the "Resource" and "Operating" accounts. Pat Hill (AMWUA) concurred with Mr. Siegel and the Commission's comments. Ms. George made a motion to authorize Chairman Guenther to sign the Second Amended Agreement as submitted, recognizing the submittal of a revised draft at the AWBA June meeting that addresses the sections discussed with a resolution that defines the powers of the AR, and to authorize herself, as Vice-Chairman, to attest in Secretary Tom Buschatzke's absence. Mr. Mawhinney provided the second to that motion. The motion carried.

Ms. Mitchell briefed the Authority on the corresponding draft letter agreement between the AWBA and SNWA. The letter agreement addresses the SNWA's request for payment flexibility by allowing a modification to the payment schedule. It states that since the AWBA has amended its 2009 Plan to include interstate storage, it will be requesting partial payment of the \$23 million and will notify SNWA 30 days prior to any delivery and storage of water. The Authority noted that the reference to Subarticle 2.4. be corrected to Subarticle 2.4.1. Ms. George made a motion to designate Chairman Guenther to be the AR to sign the letter agreement with the SNWA with the added correction of Subarticle 2.4.1. Ms. Atkins provided the second to that motion. The motion carried.

Ms. Mitchell also reviewed the first quarter interstate accounting report for 2009, noting that because the interstate deliveries for 2008 did not occur as anticipated the credit balance is currently unchanged at 527,520 acre-feet. However, based on deliveries in the 2009 Amended Plan, estimated credits will total 533,536 acre-feet by the end of the year, which accounts for 43 percent of the firming goal. She noted that at past meetings, staff also provided an accounting of the amount of interest that would have accrued on the \$100 million had it remained in the account. Because of the legislative transfer from the account, that method is no longer considered appropriate. Staff will be meeting with the State Treasurer's Office to develop an accurate accounting of the interest Nevada must pay on the monies it was loaned from the Resource subaccount. Ms. George requested that staff include the lost opportunity for interest accrual on the visuals discussed earlier.

Mr. Mawhinney pointed out that by sweeping funds that would have been used to purchase and store water for Arizona, it results in more water stored on behalf of Nevada. Chairman Guenther noted there were two months remaining before a budget is approved and that he would be meeting with members of the Legislature encouraging them to change the method that has been used for transferring funds from ADWR and the AWBA. Rather than utilizing funds from the AWB Fund to offset ADWR's budget reductions, he will recommend restoring ADWR's budget to what would have been a 20 percent reduction from the FY 2008 budget, which is similar to reductions experienced by other state agencies. However, absent these changes, ADWR would have to rely on funds from the AWB Fund so that ADWR could continue to operate. Chairman Guenther commented that he may be requesting that the Authority have a second letter agreement with SNWA requesting repayment of a portion of the loan from the \$100 million resource subaccount. Funds that are expected to be remaining in that subaccount after 2009 planned expenditures and current and potential FY 2010 Legislative transfers would not be sufficient to offset ADWR budget reductions.

Agreements

1. CAVSARP/SAVSARP Water Storage Agreement

Ms. O'Connell noted that the facility rate schedule, which was not available at the December meeting, has been incorporated into the agreement. The rate is the same for both facilities and is \$14.30 per acre-foot for 2009-2010 with an annual increase of 3% thereafter. Other changes include: 1) the addition of Section 7.3 that states the AWBA is responsible for complying with its own water storage permits, which is consistent with other AWBA water storage agreements, and 2) revisions to Section 8 that state Tucson Water would accept a decrease in AWBA deliveries, but that approval is needed for any increase in deliveries. The agreement will be presented to the Tucson City Council on April 21st. Mr. Mawhinney made a motion to authorize Chairman Guenther to sign the Agreement between the AWBA and the City of Tucson providing for the storage of CAP water at CAVSARP and SAVSARP following approval by the City of Tucson as submitted with minor or editorial changes. Ms. Atkins provided the second to that motion. The motion carried.

2. Intergovernmental Agreement between the AWBA and the Gila River Indian Community

Mr. Henley noted that statute requires the AWBA and the Community to enter into an IGA before water is delivered for replenishment purposes or for establishing the Southside Replenishment Bank. Provisions in the IGA are parallel to current statutes. Tim Pierson commented that the IGA would be presented before the Community Council in the next few weeks and that he did not foresee problems. Ms. George made a motion to postpone action on the IGA until the AWBA's June meeting acknowledging that the Authority approves of the IGA in its current form. Mr. Mawhinney provided the second to that motion. The motion carried.

3. Discussion of Amending the Agreement to Firm Future Supplies

Ms. George recused herself from the discussions due to a conflict of interest. Ms. Mitchell noted that when the Agreement to Firm was first executed, it was intended that Exhibits A & B to the agreement could be amended over time to include additional supplies to be firmed. The MCWA has requested that the agreement be amended to include a portion of the Cibola and Kingman entitlements that it has since acquired, but also requested other amendments. Ms. Mitchell read a statement from Mr. Buschatzke (handout provided) on his position, which suggested staff and MCWA amend the Agreement to Firm to create the certainty MCWA seeks and the flexibility the AWBA needs.

Mr. Wene addressed the Authority stating that in addition to amending the Exhibits, MCWA was requesting that the Agreement to Firm be amended by implementing Resolution 2008-1 of the AWBA (Resolution). He noted that unlike the AMAs, there is only one source of water available to the Colorado River communities. During shortages these communities would need assurances that they will not have to turn off their taps, which can only be provided through a contract because resolutions are not binding. They would be hesitant to pay for credits if they can be used by the AWBA for other purposes. Mr. Wene proposed that once the MCWA bought and paid for credits, the AWBA could borrow credits from the MCWA's revolving account if they are not needed and replace them when they are needed by the MCWA or MCWA subcontractors.

Mr. Henley noted that most of the proposed amendments could be addressed, but that staff had concerns with regard to committing replacement credits under contract because it could limit the AWBA's ability to meet its firming obligations. He commented that when the Resolution was adopted, the AWBA had funds and water available for meeting its Indian firming obligations. Circumstances have since changed. He clarified further that entities that use general fund credits are not purchasing the credits, but are required by statute to replace them. There is no ownership of these credits by the entities. Under the Resolution, the replaced credits are set aside for those entities that had paid to replace them. A key issue with regard to borrowing those credits is that general fund credits used for Indian firming do not need to be replaced. Mr. Henley commented that if the contract is amended to include replacement credits, the firming obligation should also be reviewed based on current criteria. Current models show that fewer credits would be needed to firm on-river supplies. The model estimated a firming amount for a 100-year period. This amendment would require continued firming beyond 100 years.

Mr. Wene noted that the current firming obligation of 420,000 acre-feet is a one-time amount of credits and that the river communities could potentially use all of them. They want to be able to rebuild those credits for future shortages. He did not support reducing the current firming amount. Mr. Mawhinney noted this would give the river communities a greater firming commitment than CAP M&I subcontractors and that it would be difficult to justify committing the credits when

the M&I subcontractors may also need them. Mr. Houtz cautioned that the contract be consistent with statute, noting that some of the current proposals were not. The Authority acknowledged the river communities' situation and asked that staff continue discussions with MCWA to find a compromise that meets the concerns of both parties. It was suggested Authority members could participate in these discussions so long as a quorum is not present.

Discussion of Water Banking Opportunities in Tucson

Mr. Henley noted that the Authority had asked staff to evaluate potential GSF storage opportunities in the Tucson AMA from differential pricing of the cost share paid by GSF operators. The AWBA's current cost share of \$32 per acre-foot reflects operating costs primarily for the Phoenix and Pinal AMAs. Pumping costs in the Tucson AMA are substantially lower, resulting in little to no GSF partnerships in that AMA. Since the GRIIDD pay a cost share of \$20 per acre-foot, there is some precedent for the use of differential pricing. Mr. Henley reviewed a table that compared the effect of potential storage capacity availability (0-20,000 acre-feet) at different cost shares (\$15-32/acre-foot) on the firming goal impacts in the Tucson AMA. The different scenarios showed an increase in the firming goal of only 2-4 percent. All available funds are expended under each scenario. Dennis Rule (Tucson Water) commented that he had concerns with regard to meeting the Tucson AMA firming goal. He also noted that Tucson Water was working with CAWCD staff on developing a recovery plan for that AMA.

Mr. Henley also briefed the Authority on a memo that had been written by Chuck Cahoy, former ADWR Deputy Counsel, regarding the use of AWBA funds "for the benefit" of the AMA. The memo states that statutes do not require that the funds be used in the area in which they were collected, only that they benefit that area. As an example, it would be possible for Phoenix to store water in the Tucson AMA as long as the benefit from the credits accrued is where the funds were collected. He noted that the AWBA was not pursuing this option, but that it could be by others. Chairman Guenther provided another example, noting that an entity could store at a GSF in the Pinal AMA in place of its own facility, which is less expensive, thereby leaving capacity available for others to store at its facility.

Call to the Public

Mr. Mawhinney recommended using a different forum and method for informing the Legislature on the negative effects the fund transfers will have on the AWBA because the current method is not working. Ms. Mitchell commented that staff had written several memos to that effect. Ms. Atkins noted she could present those memos directly to members. Mr. Mawhinney suggested using ADWR's public information officer to provide information and noted the message should focus on the AWBA's purpose for the State and how the various legislative districts could be affected. Chairman Guenther noted that the impacts of the transfers had been discussed in his meetings with Senators Nelson and Pearce. Brian Betcher noted the Districts could also contact the Legislature.

The meeting adjourned at 12:50 p.m.

**ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹**

April 28, 2009

Arizona Department of Water Resources



AUTHORITY MEMBERS

Herbert R. Guenther, Chairman
Maureen R. George, Vice-Chairman
Tom Buschatzke, Secretary
John Mawhinney
Lisa A. Atkins

EX OFFICIO MEMBERS

The Honorable Steve Pierce
The Honorable Kirk Adams

Welcome/Opening Remarks

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

Discussion and potential adoption of a position statement on legislative transfers from the Arizona Water Banking Fund. Position statement may be forwarded to the Governor and Legislature.

Kim Mitchell briefed the Authority on the status of the Arizona Water Banking Fund (AWB Fund) and provided handouts on the impacts of the legislative transfers on the AWBA. She noted that representatives of the water community, including AWBA staff, had met recently to discuss the impacts of the legislative budget on the Arizona Department of Water Resources (ADWR) and to send a unified message to the Legislature that they supported lessening fiscal impacts to ADWR without affecting the AWBA.

The AWBA Commission directed staff to draft a position statement in letter format to the Governor and members of the Legislature that addresses the following points discussed at the meeting:

- The AWBA is a separate entity from ADWR.
- The AWBA recommends against any further legislative transfers from the AWB Fund to the General Fund or to offset potential cuts to ADWR appropriations, as suggested in a document recently provided and prepared by ADWR.
- Inform the Legislature of the purpose of the AWBA and its statutory and contractual obligations.
- Identify funding sources available to the AWBA, clarifying that while the *ad valorem* tax funds are not held in the AWB Fund they are available to the AWBA for municipal and industrial (M&I) firming purposes. These funds cannot be used for meeting the AWBA's other obligations. Since these funds are held by the Central Arizona Water Conservation District (CAWCD), they are protected constitutionally against legislative transfers under the provisions for special taxing districts.
- Discuss the impacts experienced from current fiscal year transfers and

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the ramifications, both legal and water related, of potential future transfers to the State and the public if the AWBA cannot meet its statutory and contract obligations.

- Provide documentation that identifies all Colorado River and Central Arizona Project (CAP) water users that would be at risk if the AWBA cannot meet its goals and obligations. By transferring funds from the AWBA, funds would be taken from a select group in order to benefit the entire State.
- Recognize the importance of ADWR activities to the State and to the AWBA for meeting its obligations and recommend sufficient funding so that ADWR can meet its core functions.

Fred Breedlove (ADWR Legislative Liaison) commented that the AWBA's position would seriously jeopardize ADWR because it would need a source of revenue to offset potential reductions to its base appropriation. ADWR's initial preference was to have its base reinstated to a reasonable level and to have any legislative transfers come directly from the AWB Fund. However, because the proposed draft budget already included transfers from ADWR's appropriations, without provisions for backfill, ADWR suggested that the Legislature again transfer funds from the AWB Fund to offset its reductions.

Tim Henley suggested that all members of the Commission sign the letter. Chairman Guenther recused himself from signing due to a conflict of interest as Director of ADWR. Lisa Atkins noted that it was not necessary that the letter be signed before speaking to Legislative members. Chairman Guenther directed staff to post the letter to the website as soon as it was available. [Note: letter was posted May 6, 2009]

John Mawhinney inquired if there were other limitations/restrictions the AWBA might want to include in its draft legislative amendment that the legislature previously resisted. Gregg Houtz commented he would review the discussion and legislative changes that were suggested during the 1996 AWBA Study Commission. Mr. Mawhinney also noted that he had asked staff to take action on committing the Nevada money, but did not recall if that had occurred. Gregg Houtz responded that staff had informed the Commission that the AWBA could not forward interstate funds to CAWCD in the absence of scheduled water deliveries for interstate banking. Ms. Mitchell noted that staff had discussions with CAWCD to evaluate the possibility of entering into an agreement to purchase water rights utilizing funds from the resource account. These discussions were in conjunction with the proposed AWBA legislation. However, Senate Bill 1001 was adopted shortly thereafter and funds transferred from the resource account. An update will be provided in June.

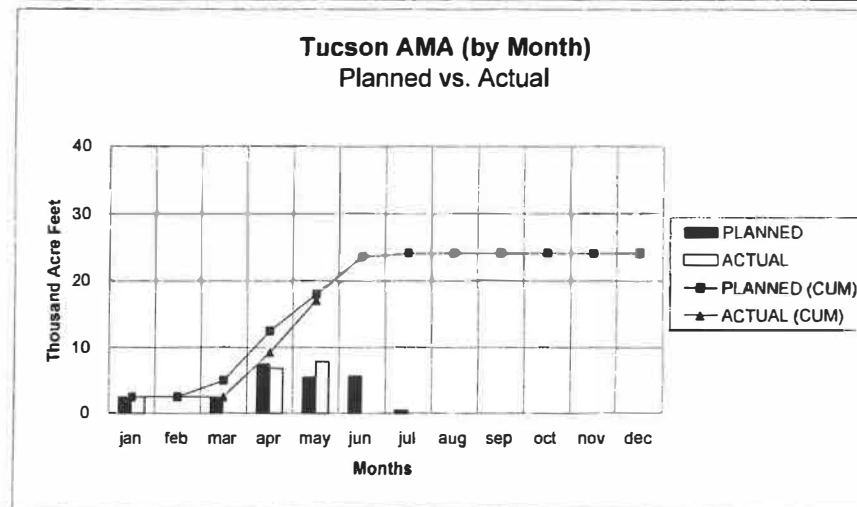
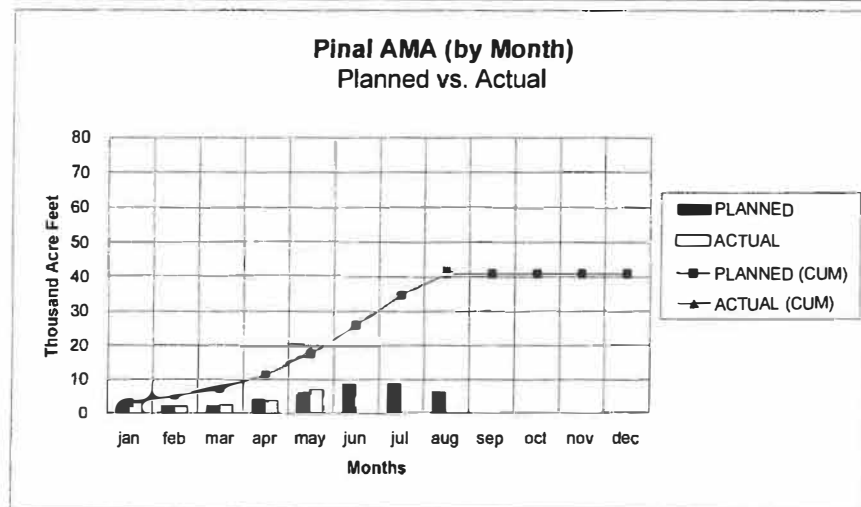
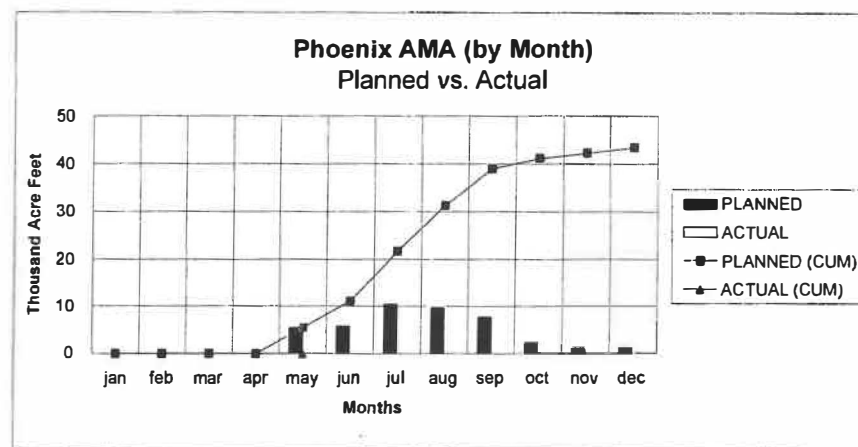
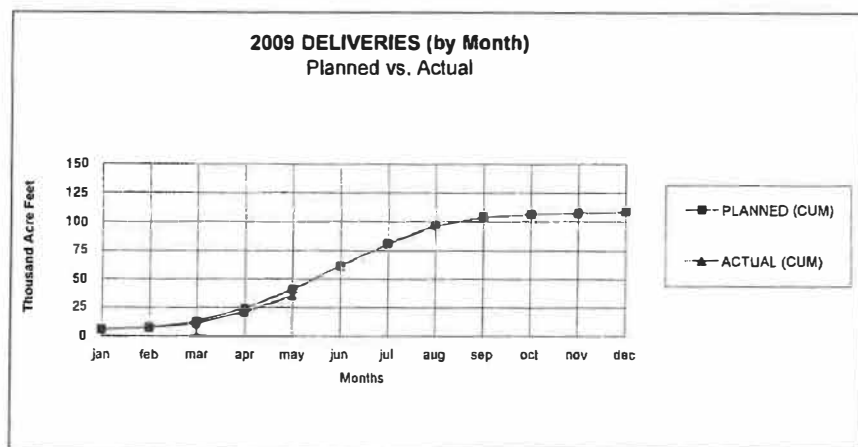
Call to the Public

Beth Miller (City of Scottsdale) noted that on behalf of the city, she supported the AWBA's position.

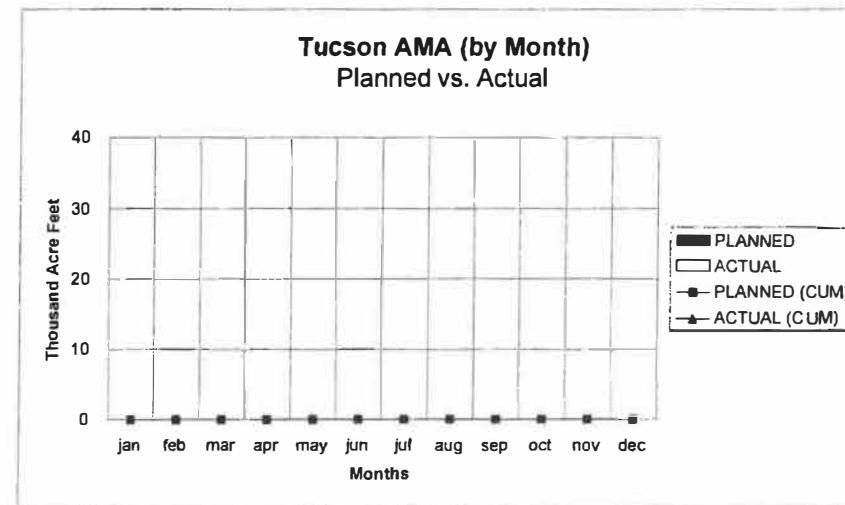
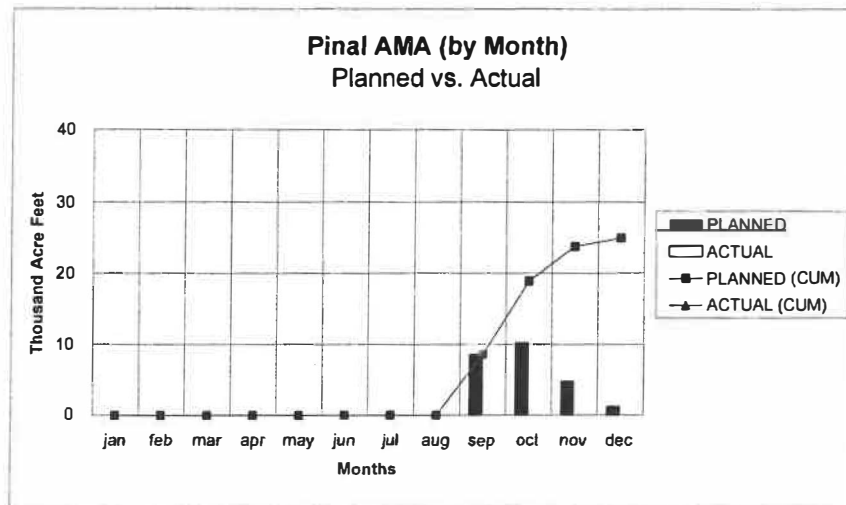
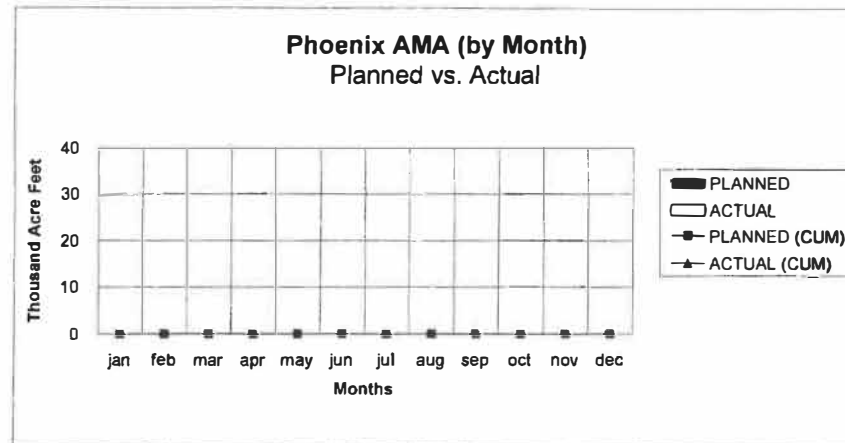
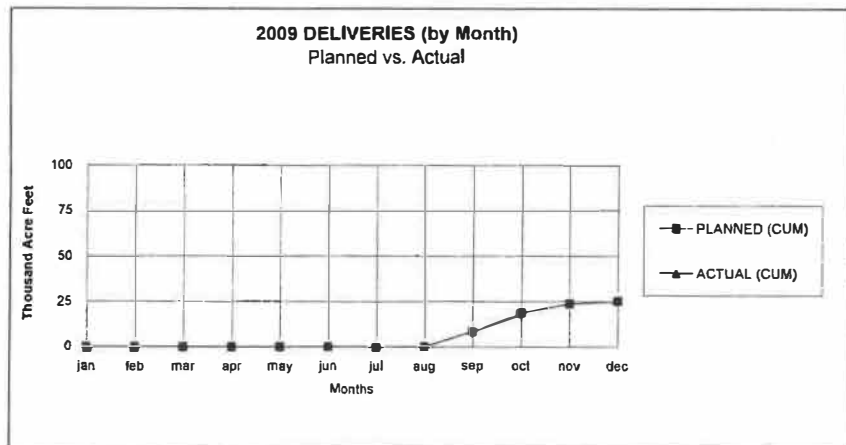
The meeting adjourned at 10:10 a.m.

2009 Amended Plan of Operation

INTRASTATE



2009 Amended Plan of Operation INTERSTATE



Actual deliveries updated Amended Plan of Operation	11-Jun-09 1-Apr-09	jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	dec	total
Phoenix AMA														
Intrastate														
GRUSP		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
AGUA FRIA		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
HIEROGLYPHIC MTNS		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
TONOPAH DESERT		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
CHCID		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
NMIDD		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
QCID		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
SRP		0	0	0	0	0	0	0	1,343	2,285	2,285	1,142	1,142	8,197
		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	0	5,402	5,711	10,475	8,365	5,373	0	0	0	35,326
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	5,402	11,113	21,588	31,296	38,954	41,239	42,381	43,523	43,523
Interstate														
GRUSP		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
AGUA FRIA		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
HIEROGLYPHIC MTNS		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
TONOPAH DESERT		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
CHCID		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
NMIDD		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
QCID		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
SRP		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
TID		0	0	0	0	0	0	0	0	0	0	0	0	0
		0	0	0	0	0	0	0	0	0	0	0	0	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	5,402	11,113	21,588	31,296	38,954	41,239	42,381	43,523	43,523

Actual deliveries updated		11-Jun-09												total
Amended Plan of Operation		1-Apr-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	0	0	0	0	20,000
	MSIDD	3,240	2,000	2,500	3,600	6,650	0	0	0	0	0	0	0	17,990
		3,240	2,000	2,070	2,590	3,110	3,120	3,110	760	0	0	0	0	20,000
	HIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
GRIIDD		0	0	0	0	403	0	0	0	0	0	0	0	403
		0	0	0	0	1,000	0	0	0	0	0	0	0	1,000
Subtotal		3,240	2,000	2,500	3,600	7,053	0	0	0	0	0	0	0	18,393
Total to date		3,240	5,240	7,740	11,340	18,393	18,393	18,393	18,393	18,393	18,393	18,393	18,393	18,393
Projected total to date		3,240	5,240	7,310	11,400	16,510	25,130	33,740	40,000	40,000	40,000	40,000	40,000	41,000
Interstate	CAIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
		0	0	0	0	0	0	0	5,500	4,750	1,750	500	12,500	
	MSIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
		0	0	0	0	0	0	0	0	3,120	5,570	3,090	720	12,500
	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	8,620	18,940	23,780	25,000	25,000	
Combined														
Subtotal		3,240	2,000	2,500	3,600	7,053	0	0	0	0	0	0	0	18,393
Total to date		3,240	5,240	7,740	11,340	18,393	18,393	18,393	18,393	18,393	18,393	18,393	18,393	18,393
Projected total to date		3,240	5,240	7,310	11,400	16,510	25,130	33,740	40,000	48,620	58,940	63,780	65,000	66,000
Tucson AMA														
Intrastate	AVRA VALLEY	480	0	0	605	763	0	0	0	0	0	0	0	1,848
		480	0	500	500	500	500	500	0	0	0	0	0	2,980
	CAVSARP	0	0	0	4,348	4,910	0	0	0	0	0	0	0	9,258
		0	0	0	5,000	5,000	5,124	0	0	0	0	0	0	15,124
	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	1,855	2,145	0	0	0	0	0	0	0	6,000
	2,000	0	2,000	2,000	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	6,808	7,818	0	0	0	0	0	0	0	17,106
Total to date		2,480	2,480	2,480	9,288	17,106	17,106	17,106	17,106	17,106	17,106	17,106	17,106	17,106
Projected total to date		2,480	2,480	4,980	12,480	17,980	23,604	24,104	24,104	24,104	24,104	24,104	24,104	24,104
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	6,808	7,818	0	0	0	0	0	0	0	17,106
Total to date		2,480	2,480	2,480	9,288	17,106	17,106	17,106	17,106	17,106	17,106	17,106	17,106	17,106
Projected total to date		2,480	2,480	4,980	12,480	17,980	23,604	24,104	24,104	24,104	24,104	24,104	24,104	24,104
TOTAL														
Subtotal		5,720	2,000	2,500	10,408	14,871	0	0	0	0	0	0	0	35,499
Total to date		5,720	7,220	10,220	20,628	35,499	35,499	35,499	35,499	35,499	35,499	35,499	35,499	35,499
Projected total to date		5,720	7,720	12,290	23,880	39,892	59,847	79,432	95,400	111,678	124,283	130,265	132,627	133,627

**CENTRAL ARIZONA PROJECT
ANNUAL RECOVERY PLAN & USE
Calendar Year 2009
(in acre-feet)**

Revised 6/9/09

Pinal County Irrigation Districts Recovery Schedule:

MONTH	MSIDD		CAIDD		HIDD		CAGRD 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	1,587	1,200	1,369	0	0	0	0	2,700	2,956
Apr	1,600	1,699	1,200	1,290	0	0	0	0	2,800	2,989
May	1,200	1,004	1,400	1,524	0	0	0	0	2,600	2,528
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	6,228	11,000	5,419	3,000	0	3,000	0	30,000	11,647

* 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>11,647 AF</u>
Remaining credits to be recovered by CAP:	= 24,016 AF

Arizona Water Banking Authority

3550 N. Central Avenue, Phoenix, Arizona 85012
Telephone 602-771-8487
Fax 602-771-8685



AUTHORITY MEMBERS

Herbert R. Guenther, Chairman
Maureen R. George, Vice-Chairman
Tom Buschatzke, Secretary
John Mawhinney
Lisa A. Atkins

EX OFFICIO MEMBERS

Honorable Steve Pierce
Honorable Kirk Adams

May 5, 2009

The Honorable Janice K. Brewer
Governor, State of Arizona
1700 West Washington Street
Phoenix, Arizona 85007

The Honorable Robert Burns
President, Arizona State Senate
1700 West Washington Street
Phoenix, Arizona 85007

The Honorable Kirk Adams
Speaker, Arizona House of Representatives
1700 West Washington Street
Phoenix, Arizona 85007

Dear Governor Brewer, President Burns, and Speaker Adams:

While we appreciate the fiscal challenges facing our State, the Arizona Water Banking Authority (AWBA) is very concerned about the impact of the fund transfers from the Arizona Water Banking Fund (Fund) in the current fiscal year, and strongly opposes the proposed additional legislative transfers of any monies from the Fund. We appreciate this opportunity to explain our concerns about the impacts of current fund transfers and our opposition to any additional transfers.

The AWBA is a five-member commission created by the Legislature in 1996 to store water for the benefit of Arizona water users in central Arizona (Maricopa, Pinal and Pima Counties), water users along the Colorado River and Indian communities. The AWBA is an entity separate and distinct from the Arizona Department of Water Resources (ADWR), created to store Arizona's unused Colorado River entitlement and to help ensure water supplies are available during times of shortage or disruptions of the Central Arizona Project (CAP) system. This storage is funded with withdrawal fees, and appropriations for both general and specific purposes. Water deliveries by the AWBA have been reduced as a result of legislative transfers, thereby increasing the impacts of shortages to water users in central Arizona and to communities along the Colorado River. See the enclosed list of the many Arizona water users that benefit from these storage activities.

In addition to the AWBA's other responsibilities, the Legislature designated the AWBA as the agent to carry out the State's obligations under the federal Arizona Water Settlements Act (Settlements Act), to which the State is a party. This includes an obligation to provide CAP water to Indian Communities during times of shortage, commonly referred to as a "firming

obligation". The Legislature, at that time, limited funding sources to the AWBA for this purpose to appropriations and the use of withdrawal fees. Failure to meet this "firming obligation" may create a risk for future litigation by the United States, or the Tribes, to enforce provisions of the Settlements Act. The beneficiaries of Indian water rights settlements are not the Tribes alone, but cities, towns, and other water users throughout the State.

The State, acting through the AWBA, also has a contractual obligation to provide 1.25 million acre-feet of water for Nevada. The Southern Nevada Water Authority (SNWA) has agreed to provide full funding for meeting this obligation. Under the contract, SNWA is required to make two payments to the AWBA, \$230 million and \$100 million. These payments cover the cost of delivering and storing CAP water and the risk to the State that an alternative source of water will have to be purchased to meet Arizona's guarantee under the contract. Until the obligation is met, transferring any of the \$100 million places the State at risk to being unable to meet the obligation. To date, approximately \$8.5 million from the original \$100 million SNWA payment has been transferred to the State's General Fund for uses other than the Nevada contract.

Besides the AWBA funding sources previously mentioned (withdrawal fees, general appropriations, and SNWA payments), the Central Arizona Water Conservation District (CAWCD) maintains accounts of funds collected through the levy of a 4-cent *ad valorem* tax in Maricopa, Pinal, and Pima Counties, the CAP service area. CAWCD utilizes these revenues to offset the cost of water to the AWBA so that it can store water for use by CAP municipal and industrial water users during times of shortage. As these funds are held by a special taxing district, transfers by the Legislature are constitutionally prohibited.

In FY 2009, the Legislature has transferred approximately \$25 million from the Arizona Water Banking Fund to the State's General Fund. Approximately \$17 million of this transfer directly affects the amount of water the AWBA can store for the benefit of Arizona users. Unfortunately, House Bill 2633 currently proposes the transfer of another \$7.9 million from the AWBA for FY 2010. Water not stored by the AWBA reduces the amount of water available to Arizona during times of shortage. The result has been that instead of storing water for the benefit of Arizona, AWBA stored water for the benefit of Nevada.

The AWBA is aware that some of the past legislative transfers of funds from the AWBA have been used to partially fund the ADWR budget. Since the AWBA is independent from ADWR, we do not support the use of AWBA funds for that purpose and strongly believe that it places water users in this State at unnecessary risk. However, we also recognize the importance of ADWR and the activities that are mutually beneficial to both our organizations. These activities allow the AWBA to meet its individual obligations. We believe that the statewide importance and critical nature of ADWR's operations and work warrant funding sufficient to meet their obligations and urge your favorable consideration of establishing such a base funding level. This base funding level should not rely on the transfer of AWBA funds.

Recently, you were provided documents suggesting that the Arizona Water Banking Fund be used to supplement the General Fund and to offset potential cuts in the ADWR appropriations. Those documents were prepared by ADWR, with no input from the AWBA Commission

members. We were disappointed in not participating in those documents and hope that this letter clarifies our position with regard to the risks of using AWBA funds to offset ADWR cuts.

As budget discussions continue, we hope that you, your colleagues and staff will feel free to communicate directly with AWBA Commission members and staff to fully understand the ramifications of transferring AWBA funds. The AWBA is willing and ready to provide the information or data needed to facilitate these discussions. We look forward to working with you to address the immediate fiscal challenges facing our State, and developing a plan on how the funds that have already been transferred could be returned to the AWBA as the State's fiscal condition improves in the future.

Sincerely,

[Recused]
Herbert R. Guenther
Chairman

Maureen R. George
Maureen R. George
Vice-Chairman

Tom Buschatzke
Tom Buschatzke
Secretary

John Mawhinney
John Mawhinney
Commission Member

Lisa A. Atkins
Lisa A. Atkins
Commission Member

Enclosure

cc: Members, Arizona State Senate
Members, Arizona House of Representatives
AWBA Authority Members
Arizona Department of Water Resources
Central Arizona Water Conservation District

Arizona Entities that Benefit from Arizona Water Banking Authority Storage Activities

Arizona State Land Department	Community Water Company (Green Valley)
Arizona State Parks	Flowing Wells Irrigation District
Arizona Water Company	Freeport MacMoRan (former Phelps Dodge, Inc.)
Arizona-American Water Company	Golden Shores Water Conservation District
ASARCO Incorporated (Ray Mine)	Green Valley Domestic Water Improvement District
AVRA Water Co-op, Inc.	Hohokam Irrigation District
Bullhead City	Lake Havasu City
Carefree Water Co.	Maricopa County Parks & Recreation
Cave Creek Water Co.	Maricopa-Stanfield Irrigation & Drainage District
Central Arizona Irrigation & Drainage District	Metropolitan Domestic Water Improvement District
Central Arizona Water Conservation District	Mohave County Water Authority
(for Central Arizona Groundwater Replenishment District)	Mohave Valley Irrigation and Drainage District
Chandler Heights Citrus Irrigation District	Phoenix Memorial Park
Chaparral City Water Co.	Pine Water Company
Circle City Water Co.	Queen Creek Water Co.
City of Avondale	Rio Verde Utilities, Inc.
City of Chandler	San Tan Irrigation District
City of El Mirage	Spanish Trail Water Co.
City of Eloy	Town of Buckeye
City of Glendale	Town of Florence
City of Goodyear	Town of Gilbert
City of Mesa	Town of Marana
City of Peoria	Town of Oro Valley
City of Phoenix	Town of Parker
City of Scottsdale	Town of Quartzite
City of Surprise	Town of Superior

Arizona Water Banking Authority

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AUTHORITY MEMBERS

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EX OFFICIO MEMBERS

Honorable Steve Pierce
Honorable Kirk Adams

June 17, 2009

Ms. Lorri Gray, Regional Director
U.S. Department of the Interior
Bureau of Reclamation
Lower Colorado River Regional Office
P.O. Box 61470
Boulder City, Nevada 89006

Mr. Jeffrey Kightlinger, General Manager
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

Mr. David Modeer, General Manager
Central Arizona Water Conservation District
P.O. Box 43020
Phoenix, AZ 85080-3020

RE: Certification of Intentionally Created Unused Apportionment (ICUA) for 2008 pursuant to the *Amended Letter Agreement for the Creation of Intentionally Created Unused Apportionment with Credits Created Under the 1992 Demonstration Agreement between CAWCD and MWD, December 11, 2007*

Dear Ms. Gray and Messrs. Kightlinger and Wilson:

Pursuant to the above-referenced Amended Letter Agreement, the Arizona Water Banking Authority (AWBA) is providing certification of the quantity of ICUA created in 2008 and the method used to create the ICUA to the U.S. Bureau of Reclamation, Metropolitan Water District of Southern California (Metropolitan), and the Central Arizona Water Conservation District (CAWCD).

A total of 28,442 acre-feet of ICUA was created in calendar year 2008 for the benefit of Metropolitan. ICUA was created through both the recovery and credit exchange methods. Of the total 28,442 acre-feet of ICUA developed in 2008 from credits previously accrued on behalf of Metropolitan, 27,442 acre-feet of LTSCs were recovered from wells within two irrigation districts in Pinal County, Arizona. The remaining balance of 1,000 acre-feet of ICUA were developed utilizing credit exchange whereby CAWCD exchanged LTSCs with the Central Arizona Groundwater Replenishment District (CAGR) in lieu of CAGR receiving Central Arizona Project water, which had been scheduled to be delivered to the CAGR for storage in 2008.

A letter from the Arizona Department of Water Resources to the AWBA summarizing their review of CAWCD's annual reporting is enclosed for your information.

Please don't hesitate to contact me if you require additional information.

Sincerely,

A handwritten signature in black ink that reads "Kim Mitchell". The signature is written in a cursive style with a large, prominent "K" and "M".

Kim Mitchell, Manager
Arizona Water Banking Authority

Enclosure

cc: Mr. Terry Fulp, Bureau of Reclamation
Ms. Ruth Thayer, Bureau of Reclamation
Mr. Roger K. Patterson, Metropolitan Water District of Southern California
Mr. Gerald "Jerry" Zimmerman, Colorado River Board of California
Mr. Larry Dozier, Central Arizona Water Conservation District
Mr. Herbert R. Guenther, Arizona Water Banking Authority
Ms. Kay Brothers, Southern Nevada Water Authority
Mr. George Caan, Colorado River Commission of Nevada

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
CENTRAL ARIZONA WATER CONSERVATION DISTRICT
REGARDING AD VALOREM TAX FOR WATER STORAGE

(June 4, 2009)

WHEREAS, House Bill 2494 adopted by the Arizona Legislature in 1996 (Chapter 308, Laws of Arizona 1996, Forty-second Legislature, Second Regular Session) established the Arizona Water Bank and amended A.R.S. § 48-3715.02 relating to the tax levy for water storage; and

WHEREAS, A.R.S. § 48-3715.02, subsection B, provides that the Board of Directors (the "Board") of the Central Arizona Water Conservation District (the "District") shall fix the amount to be raised by direct taxation pursuant to its provisions, which amount shall not exceed four cents per one hundred dollars of assessed valuation; and

WHEREAS, the Board by separate action has fixed the tax rate pursuant to A.R.S. § 48-3715.02, subsection B, for the 2009-2010 tax year at .04 cents per one hundred dollars of assessed valuation; and

WHEREAS, A.R.S. § 48-3715.03 further provides that the Board shall determine annually by resolution whether any or all of the tax levied pursuant to A.R.S. § 48-3715.02, subsections B and C, shall be applied to the repayment of the construction costs of the Central Arizona Project ("CAP" or the "Project") or to the annual operation, maintenance, and replacement costs of the Project; and

WHEREAS, A.R.S. § 48-3715.03 further provides that those monies specified in such resolution for repayment of the construction costs or payment of the annual operation, maintenance, and replacement costs of the Project shall be deposited in the District fund established pursuant to

A.R.S. § 48-3712, subsection A, paragraph 5; and


WHEREAS, A.R.S. § 48-3715.03 further provides that a certified copy of such resolution shall be delivered to the Arizona Department of Water Resources;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Central Arizona Water Conservation District, as follows:

1. That all of the taxes levied pursuant to A.R.S. § 48-3715.02, subsections B and C, in the 2009-2010 tax year shall be applied to the annual operation, maintenance, and replacement costs of the Project; and
2. That all taxes levied pursuant to A.R.S. § 48-3715.02, subsections B and C, in the 2009-2010 tax year be deposited in a designated District account in the District fund established pursuant to A.R.S. § 48-3712, subsection A, paragraph 5, to be used by the District to defray the annual operation, maintenance, and replacement costs related to underground storage; and
3. That a certified copy of this resolution be delivered to the Arizona Department of Water Resources.

I, the undersigned, as Secretary of the Central Arizona Water Conservation District, hereby certify that the foregoing is a true and correct copy of the resolutions duly adopted by the Board of Directors of the Central Arizona Water Conservation District at a meeting thereof, duly called and held on June 4, 2009, at which a quorum was present and acting throughout. I further certify that said resolutions have not been modified or revoked since their adoption and are still in full force and effect.

SIGNED THIS 4th DAY OF JUNE 2009.

By: 
Timothy R. Bray
Secretary

**CAWCD PROCEDURE TO DISTRIBUTE
EXCESS WATER
IN 2010 THROUGH 2014
Adopted June 4, 2009**

Staff have worked with stakeholders to develop procedures that balance competing interests for the limited supply of Excess CAP water. The outcome of this "Access to Excess" process is a Staff Proposal that relies, where possible, on consensus among the stakeholders.

From the total available Excess supply, the Agricultural Settlement Pool is filled first, and is not subject to "Access to Excess" provisions. The Staff Proposal then creates four separate pools, in effect for a five year period (2010 through 2014). The pools are: AWBA & CAGRDR Replenishment Reserve; CAGRDR Annual Replenishment; Municipal; Industrial & Other.

The AWBA and CAGRDR Replenishment Reserve share a pool of a fixed volume of 175,000 acre-feet (AWBA/RR pool). Allocation within this pool is set as part of the existing annual AWBA-CAWCD coordination and public meetings. AWBA may use the water for any authorized purpose.

The pool established for the CAGRDR's annual replenishment is capped at 35,000 acre-feet. The remaining volume is split evenly between a Municipal pool and an Industrial & Other pool. Water not used by the AWBA or CAGRDR in either of their pools is split between the Municipal pool and the Industrial & Other pool.

The Municipal Pool is for public & private water providers. Access within the pool incorporates two different approaches: historic use, and equal shares. Historic use is based on each provider's maximum use (Incentive plus Full Cost Excess) between 2005 and 2009. In the first year (2010), historic use is the primary allocation mechanism (90%), with a small volume (10%) apportioned equally. By the fifth year (2014), the two approaches have equal weighting.

The Industrial & Other pool is open to all other users, but is broken into two tiers—Industrial Tier (direct use or users storing water for a specific project) and Remarketer Tier (users storing water for future credit resale). All of the orders for the Industrial Tier users will be filled before allocating and filling orders for the Remarketer Tier. Access within the pool is based on a three year rolling average of actual water deliveries for each entity. Small users (orders less than 1,000 acre feet/year) will receive their full order as long as that order is not greater than in the previous three years.

ARIZONA WATER BANKING AUTHORITY
(FY 2009 - July 2008 thru June 2009)

	Approved	Actual
FY 2009 ADMINISTRATIVE BUDGET	\$618,474	\$515,028
Administration Account Balance		
Projected End-of-Fy08	\$1,085,523	\$1,102,674
Projected End-of-Fy09	\$717,049	\$766,646

ARIZONA WATER BANKING AUTHORITY
(FY 2010 - July 2009 thru June 2010)

FY 2010 ADMINISTRATIVE BUDGET **\$524,374**

Administration Account Balance

Projected End-of-FY09 **\$766,646**

Projected End-of-FY10 **\$241,772**

ARIZONA WATER BANKING AUTHORITY

FY 2010 ADMINISTRATIVE BUDGET

\$524,374

STAFFING

ADWR Cost of Services		Cost	\$403,574
Personnel Services	2.5 FTE		\$192,874
Water Bank Manager			
Water Bank Technical Administrator			
Admin Assistant			
Attorney			
Employee Related Expenditures (at 34.1% of Personnel Services)			\$65,800
Indirect Cost (at 56% of Personnel Service & ERE)			\$144,900
CAWCD Cost of Services			\$21,000
Water System Engineer			
Customer Service Coordinator			
Hydrologist			
Administrative Support			
Subtotal Staffing			\$424,574

OTHER COSTS

Professional & Outside Services				\$90,000
Travel				\$6,300
Instate Travel				\$5,300
Out of State Travel				\$1,000
Other Operating Expenses				\$3,250
Standard per employee	2.5 FTE	\$500		\$1,250
Miscellaneous				\$2,000
Equipment				\$250
				\$250
Subtotal Other Costs				\$99,800

ARIZONA WATER BANKING AUTHORITY

TRAVEL

		Meetings	\$/Meeting	Cost
INSTATE TRAVEL				
Authority Members				
	Tom Buschatzke	5	\$0	\$0
	Maureen George	5	\$0	\$0
	Herb Guenther	5	\$0	\$0
	John Mawhinney	5	\$100	\$500
	Lisa Atkins	5	\$0	\$0
	Subtotal			\$500
Authority Staff				
	Manager	5	\$0	\$0
		3	\$600	\$1,800
	Technical Administrator	5	\$0	\$0
		2	\$600	\$1,200
	Other Support	3	\$600	\$1,800
	Subtotal			\$4,800
	Motor Pool			\$0
	Instate Total			\$5,300
OUT OF STATE TRAVEL				
Authority Members		No out of state travel is anticipated for Authority Members		
Authority Staff				
	Manager	1	\$1,000	\$1,000
	Technical Administrator	0		\$0
	Other Support	0		\$0
	Total Out of State			\$1,000
	Total Travel			\$6,300

OTHER OPERATING COSTS

		Cost
Miscellaneous		
	Supplies	\$700
	Training	\$0
	Other	\$800
	Permits	\$500
		<u>\$2,000</u>
Other Operating Cost		\$2,000

EQUIPMENT

	Units	Unit Cost	Cost
			\$250
			<u>\$250</u>
Subtotal			\$250
Total Equipment			\$250

GSF Opportunities and Firming Goal Impacts in the Tucson AMA

- Water storage in the Tucson AMA occurs primarily at underground storage facilities (USFs). Storage at these facilities includes a facility usage fee in addition to the water delivery fees, increasing overall storage costs. Storage costs at GSFs are less than the water delivery costs because the GSF operator pays a portion of these costs.

(Storage at USFs = CAP water delivery cost + USF facility cost)

(Storage at GSFs = CAP water delivery cost – GSF partner share)

- Under the current GSF partner cost share of \$32/AF there is little to no opportunity for GSF partnerships in the Tucson AMA because pumping costs in the Tucson AMA are substantially lower than in the Phoenix and Pinal AMAs.
- Current examples of differential GSF partner cost share would be the \$20/AF paid by the Gila River Indian Community versus \$32/AF paid by other GSF partners.
- Unique situation in the Tucson AMA is insufficient funding to meet the M&I firming goal.
- Differential pricing for Tucson GSFs could stretch Tucson AMA funding.
- Even with differential pricing the goal may not be fully met.

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

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

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

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%

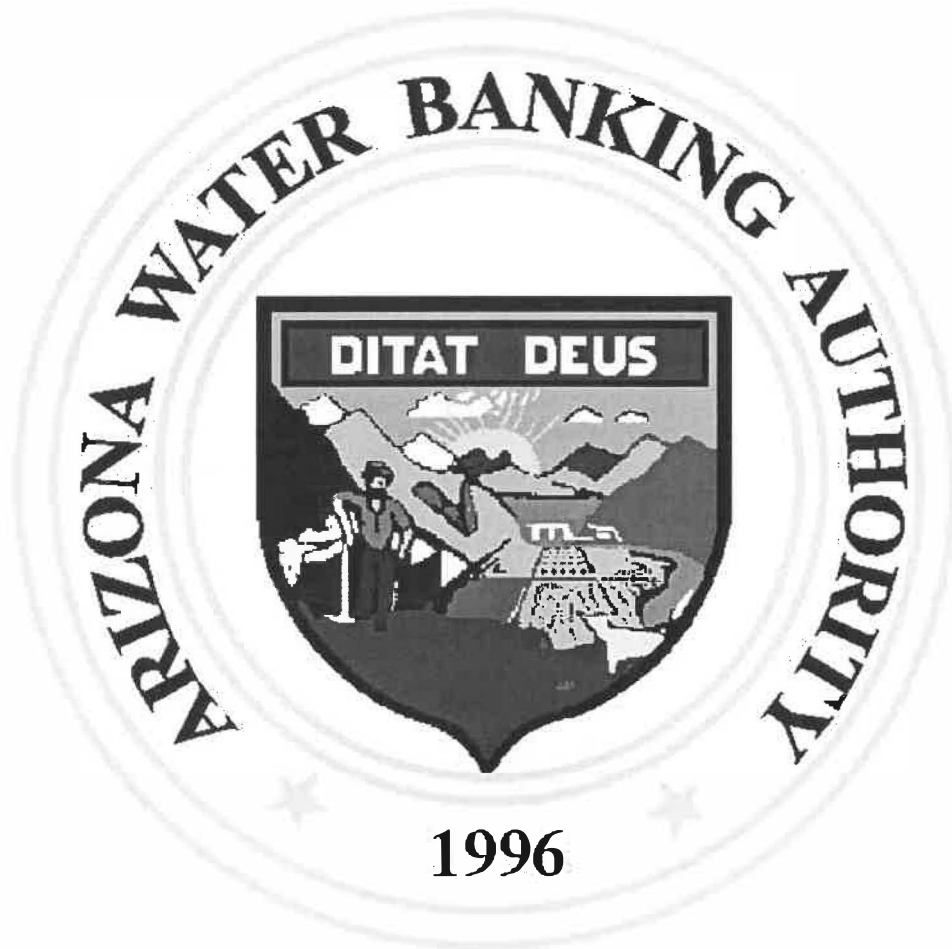
GSF Partner Cost Share - \$20/AF - 10 kAF capacity

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.

ARIZONA WATER BANKING AUTHORITY

ANNUAL REPORT
2008



Submitted

July 1, 2009

Arizona Water Banking Authority

Annual Report 2008

Honorable Janice K. Brewer
Governor of Arizona

Members

Herbert R. Guenther
Chairman

Maureen R. George
Vice-chairman

Tom Buschatzke
Secretary

John T. Mawhinney
Member

Gayle J. Burns
Member

Ex officio

Senator Jake Flake
Senator Timothy Bee
Representative Lucy Mason

Table of Contents

Summary	2
Arizona Water Banking Authority Annual Report Requirement	4
Update	5
Activities and Projects - 2008	8
Indian Firming Program	8
Water Availability and AWBA Legislation.....	9
Interstate Banking.....	11
Development of and Requests for Creation of ICUA	13
Certification of ICUA.....	13
Shortage Sharing	13
Agreement to Firm Future Supplies	14
Recovery.....	14
Agreement and Facility Permit Activity	15
2009 Annual Plan of Operation	15
Website	15
Monies Expended from the Banking Fund	16
Long-term Storage Credits	19
Long-term Storage Credits Distributed or Extinguished by the Authority	24
Ten-Year Plan.....	25
Appendices	34

List of Tables

Table 1. Monies Collected and Expended in 2008 by Source of Funds.....	18
Table 2. Monies Collected and Expended through December 2008 and	18
 Monies Remaining Available.....	18
Table 3. Number and Location of Long-term Storage Credits Accrued in 2008	19
Table 4. Cumulative Total and Location of Long-term Storage Credits.....	20
 Accrued through December 2008	20
Table 5. Identified Uses of Long-term Storage Credits Accrued through December 2008 and Percentage of AWBA Goals Achieved.....	212
Table 6a. Average Annual Cost for the AWBA to Obtain a Long-term Storage Credit for Intrastate Storage.....	23
Table 6b. Average Annual Cost for the AWBA to Obtain a Long-term Storage Credit for Storage on Behalf of Nevada.....	23
Table 7. Ten-year plan.....	27
Table 8. AWBA Percentage of Goals Achieved through 2018	28

The Arizona Water Banking Authority

Summary

The Arizona Water Banking Authority (AWBA; Water Bank) was created in 1996 to store the unused portion of Arizona's annual allocation of the Colorado River. Until the AWBA was created, Arizona had not used its full 2.8 million acre-foot share of Colorado River water. Leaving a portion of Arizona's water in the Colorado River was a lost opportunity; the AWBA has seized this opportunity to further secure dependable water supplies necessary to ensure the State's long-term prosperity.

The Water Bank stores unused Arizona Colorado River water to meet future needs for:

- Firming (to secure) adequate water supply to municipal and industrial users in the Central Arizona Water Conservation District (CAWCD) service area and along the Colorado River in times of shortages;
- Meeting the management plan objectives of the Arizona Groundwater Code;
- Assisting in the settlement of Indian water rights claims; and
- Assisting Nevada and California through interstate water banking.

Each year, the AWBA pays the delivery and storage costs to bring Colorado River water into Central and Southern Arizona through the Central Arizona Project (CAP) canal. The water is stored underground in existing aquifers (direct recharge) or is used by irrigation districts in lieu of pumping groundwater (indirect or in lieu recharge). For each acre-foot stored, the AWBA accrues a credit that can be redeemed in the future when Arizona's communities or neighboring states need this backup water supply.

The money that funds the AWBA and, specifically, water storage for the benefit of Arizona (intrastate storage) comes from three sources that are either from existing revenue sources or from fees charged to those benefiting directly from the stored water. Restrictions on the ways these monies can be used depend on the source of the monies, which currently include:

- Fees for groundwater pumping currently collected within the Phoenix, Pinal and Tucson Active Management Areas (AMA). These monies can only be used to benefit the AMA in which the fees are collected.
- A four cent *ad valorem* property tax collected in the three county CAWCD service area. These monies can only be used to benefit the county in which the tax is levied.
- A general fund appropriation received at the discretion of the Legislature.

In addition to these three sources of funding for intrastate storage, \$8,000,000 was made available from the Southern Nevada Water Authority (SNWA) to assist Arizona in offsetting impacts from shortages that may occur during the Interim Period (2008 through 2026). A portion of these funds were transmitted to the AWBA in early 2008 and were used to purchase and store water supplies to mitigate the impact of shortages on Arizona users. The AWBA also use funds provided by Nevada pursuant to the Amended Agreement for Interstate Water Banking (Amended Agreement) to create credits for the benefit of Nevada.

In calendar year 2008, the Water Bank delivered for recharge a total of 216,990 acre-feet at a cost of \$8,168,094. There were no interstate water deliveries in 2008.

From the Water Bank's inception through calendar year 2008, the AWBA has accrued approximately 3,166,968 acre-feet of credits at a cost of \$223,149,507. Of this total volume, intrastate credits totaled 2,689,448 acre-feet at a cost of \$128,668,889 and interstate credits totaled 477,520 acre-feet at a cost of \$94,480,618. In addition to the credits accrued by the AWBA, 50,000 acre-feet of credits previously accrued by CAWCD were transferred to the account creating a total of 527,520 acre-feet of credits available for Nevada.

Arizona Water Banking Authority Annual Report Requirement

Arizona Revised Statutes § 45-2426 mandates that the AWBA file an annual report with the Governor, President of the Senate, and Speaker of the House of Representatives on or before July 1 of each year for the previous calendar year. The report is required to be a full and complete account of the AWBA's transactions and proceedings and must include the following:

1. An accounting of all monies expended from the banking fund.
2. An accounting of all monies in the banking fund remaining available to the AWBA.
3. The amount of water stored by the AWBA.
4. The number of long-term storage credits distributed or extinguished by the AWBA.
5. The purposes for which long-term storage credits were distributed or extinguished by the AWBA.
6. A description of the water banking services and interstate water banking to be undertaken by the AWBA during the following ten-year period and a projection of the capacity of the AWBA during that period to undertake those activities in addition to storing Colorado River water brought into the state through the CAP for all of the following purposes:
 - a. Protecting this state's municipal and industrial (M&I) water users against future water shortages on the Colorado River and disruptions of operation of the CAP.
 - b. Fulfilling the water management objectives of the state.
 - c. Making water available to implement the settlement of water rights claims by Indian communities within Arizona.
7. Any other matter determined by the authority to be relevant to the policy and purposes of the AWBA.

Update

Prior to 2006, the AWBA was the major user of incentive recharge water; however, in 2006 through 2008, the AWBA began to have many competitors for that supply. Calendar year 2008 started as a year of very limited water availability for the AWBA. Because the cost of incentive recharge water was at a historic low, several entities began storing water that had previously not participated in underground water storage. This increased interest in incentive recharge water had significant impacts on the AWBA. First, it reduced the amount of excess water available to the AWBA. Second, several of the AWBA's storage partners opted to store with these other entities. The AWBA recognized this trend as it developed its 2008 Plan of Operation in the Fall of 2007. Given the AWBA has the lowest priority for that supply, this transition had a significant impact on the AWBA's 2008 operations.

In October, 2007 after water orders had been submitted to CAWCD, it appeared the AWBA would have about 200,000 acre-feet less water available to it as compared to 2007. This limited availability of water to the Water Bank was due to increased water orders by CAP subcontract holders, by Salt River Project to maintain storage in Roosevelt Lake, and the increased interest in excess CAP water. Heavy precipitation events in the Spring, 2008 resulted in CAWCD customers turning back water that was then made available to the Water Bank. By the end of 2008, water deliveries to the AWBA totaled 216,990 acre-feet for intrastate storage. This volume represents about 168,000 acre-feet less water delivered from 2007. Due to the limited water availability, no interstate deliveries were made on behalf of Nevada.

With respect to membership, there was one change to the AWBA Commission in 2008. Following the passing of Senator Jake Flake on June 8, 2008, statutorily appointed Senator Timothy Bee, President of the Senate, served on the Commission as *ex officio* member for the remainder of the year. In October, 2008, Governor Napolitano reappointed Tom Buschatzke, Maureen George, and John Mawhinney to the Commission for another six-year term; their terms were set to expire in January, 2009. Senate confirmation of these reappointments had not occurred by the end of 2008. There were no changes to the AWBA staff members in 2008.

The Agreement between the Secretary of Interior and the State of Arizona for the Firming of Central Arizona Project Indian Water (Secretarial Agreement) was executed on November 15, 2007. The AWBA began meeting some of the obligations outlined in the Secretarial Agreement in 2008. Negotiations continued throughout 2008 with the White Mountain Apache Tribe, Hopi Tribe, and Navajo Nation for Indian water right claims that remain outstanding.

In 2008, Staff coordinated with and presented a draft intergovernmental agreement (IGA) to the Gila River Indian Community for the purpose of establishing the Southside Replenishment Bank (SSR Bank). The AWBA must deliver at least 1,000 acre-feet per year, up to 15,000 acre-feet, to establish the SSR Bank.

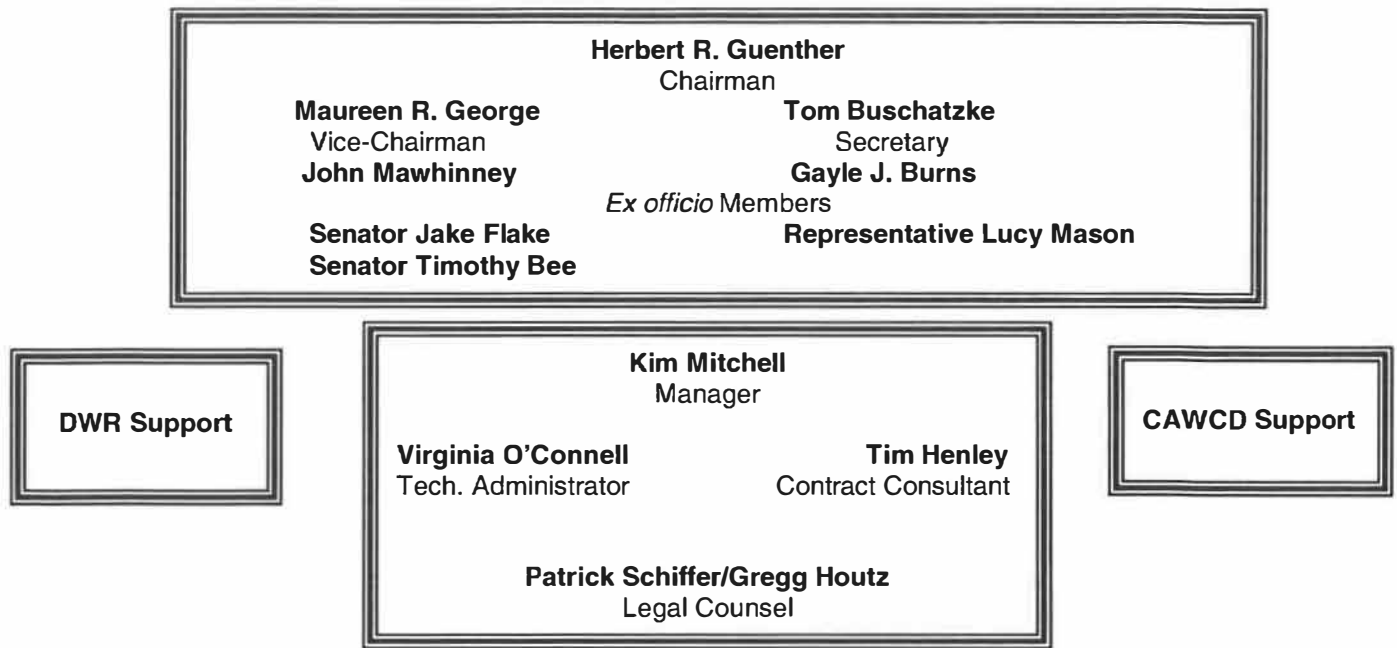


Figure 1. Arizona Water Banking Authority Organizational Chart for 2008

Southern Nevada Water Authority (SNWA) agreed to provide to the AWBA \$8,000,000 to assist Arizona in offsetting impacts from shortages that may occur during the Interim Period. A portion of the \$8,000,000 (\$2.3 million) was transmitted to the AWBA in 2008. These funds were used to purchase and store excess water to mitigate the impact of shortages on Arizona users.

The AWBA executed Resolution 2008-1 in March, 2008 that establishes a long-term storage credit replacement account for 4th priority Colorado River M&I users. This establishes a revolving fund for the credits used and replaced in conjunction with on-river M&I firming.

Excess CAP water orders received in October, 2008 exceeded the available supply by more than 225,000 acre-feet for 2009. Procedures for the distribution of the available water were developed and implemented by CAWCD by November, 2008. AWBA staff coordinated with CAWCD in that process and in developing a comprehensive policy for the distribution of excess CAP water beginning in 2010.

With the AWBA's new obligations under the Arizona Water Settlements Act, the increase in demand for excess CAP water, and the current statutory language that places the AWBA last in receiving excess CAP water, the AWBA began pursuing opportunities with the Legislature to work toward fulfilling the significant number of responsibilities of the Water Bank. The AWBA Commission approved submittal of a legislative amendment that would clarify how the AWBA could participate in any pools created by CAWCD.

The AWBA staff again participated in a poster session at the Colorado River Water Users Association meeting in December. The theme of the exhibit was similar to past years and focused on three areas of Arizona's resources: groundwater management, recharge, and reuse. The exhibit was completed in conjunction with Salt River Project, Arizona Municipal Water Users Association, Agri-Business Council of Arizona, CAWCD, and ADWR.

In 2008, the AWBA delivered for recharge a total of 216,990 acre-feet of water for intrastate purposes. No water was stored on behalf of the Southern Nevada Water Authority (SNWA). The interstate credits accrued through 2008 remained the same at a total of 527,520 acre-feet and fulfills about 42% of Arizona's obligation to Nevada under the Amended Agreement for Interstate Banking (Amended Agreement). The quantity of water received by each facility is described in Appendix A and totaled 79,765 acre-feet of water in the Phoenix AMA, 103,241 acre-feet of water in the Pinal AMA, and 33,984 acre-feet in the Tucson AMA.

In addition to the 2008 deliveries, 28,442 acre-feet of Intentionally Created Unused Apportionment (ICUA) was created and made available to California. This ICUA was created pursuant to the *Amended Letter Agreement for the Creation of Intentionally Created Unused Apportionment with Credits Created Under the 1992 Demonstration Agreement between CAWCD and MWD, December 11, 2007*. For the first time, ICUA was certified in 2008. In June, 2008, the AWBA certified the creation of 16,804 acre-feet of ICUA in 2007,

Based on provisional data, total consumptive use of Colorado River water by Arizona for 2008 was approximately 2.77 million acre-feet. Distribution of that quantity was approximately 1.21 million acre-feet for direct uses along the Colorado River and CAP diversions of approximately 1.56 million acre-feet, (U.S. Bureau of Reclamation, Lower Colorado River Operations, Colorado River Accounting and Water Use Report – 2008, dated April 9, 2009). In 2008, storage by the AWBA assisted Arizona in using its entitlement to Colorado River water.

For more information about the Arizona Water Banking Authority, consult the AWBA website at www.azwaterbank.gov or contact Kim Mitchell (krmitchell@azwater.gov), Virginia O'Connell (voconnell@azwater.gov), or Tim Henley (tjhenley@azwater.gov), or by phone at 602-771-8487.

Activities and Projects - 2008

Indian Firming Program

Secretarial Agreement

On December 14, 2007, the legislation that passed in 2004 approving the Arizona Water Settlements Act (Settlements Act) P.L. 108-451, became enforceable, thus settling longtime claims to water by the Gila River Indian Community (Community; GRIC) and the Tohono O'odham Nation. A key provision affecting the Water Bank within the Settlements Act is the provision authorizing the Secretary of the Interior (Secretary) and the State of Arizona (State) to develop a Firming Program to ensure that 60,648 acre-feet of Non-Indian agricultural (NIA) priority CAP water reallocated to Indian tribes shall be delivered during water shortages in the same manner as water with a municipal and industrial (M&I) priority is delivered during water shortages.

During the 2006 legislative session, House Bill 2835 was signed that provided the AWBA the statutory authorities to act as Arizona's agent in meeting its firming obligations under the Settlements Act. Throughout 2006 and 2007, AWBA staff met with representatives from the U.S. Bureau of Reclamation (Reclamation) to develop an agreement to firm non-Indian agricultural (NIA) priority CAP water for tribal settlements. The Agreement between the Secretary of Interior and the State of Arizona for the Firming of Central Arizona Project Indian Water (Secretarial Agreement) was executed on November 15, 2007.

The Secretarial Agreement identifies the obligations that must be met and develops the method for meeting the obligations between the State and Federal governments. The Settlements Act and Secretarial Agreement recognize three categories where the State has firming responsibilities. The first two obligations pertain to firming of water for the GRIC and other Arizona tribes; the third obligation pertains to providing assistance to the Secretary in carrying out obligations of the Southern Arizona Water Rights Settlement Act. The Secretarial Agreement also allows for the development of agreements between the AWBA and the tribes receiving the water, identifying an acceptable plan for achieving the firming.

Early in 2008, AWBA staff began discussing with the GRIC staff potential firming mechanisms that might be advantageous for both the Tribe and State. Because of the current State's budget shortfall, \$12.4 million of money appropriated for Indian firming was transferred out of the Water Banking Fund Indian firming subaccount. Following this transfer, the AWBA discontinued discussions to assess various options for firming with the GRIC. Until there is an appropriation specifically for Indian firming, the AWBA will work toward this obligation using withdrawal fees collected in the Phoenix and Pinal Active Management Areas to develop credits through storage of water at Groundwater Savings Facilities.

The State has committed to provide support to the Federal government for the Tohono O'odham Nation by contributing \$3 million in either cash or in-kind goods and services. In 2008, the AWBA expended approximately \$2.05 million (\$2,033,354 for water deliveries and storage; \$14,883 for cost of services) for Indian firming to develop 25,756 acre-feet of credits in the Tucson area. These expenditures were from the balance remaining from the \$13.5 million including interest earned on that subaccount.

The AWBA anticipates further development of credits and the subsequent completion of the \$3 million contribution to the Federal government in 2009. A provision of the Secretarial Agreement require the State to meet this obligation within four years, beginning January 1 after the enforceability date; thus the AWBA expects to meet this obligation in advance of the mandated schedule. These credits will later be assigned to the Secretary to satisfy the State's obligation to assist the U.S. in meeting its obligation to firm Tohono O'odham water.

Other Indian Water Rights Settlements

Negotiations continued throughout 2008 with the White Mountain Apache Tribe, Hopi Tribe, and Navajo Nation for Indian water right claims that remain outstanding. The AWBA continued to follow these discussions since the AWBA could be involved in firming responsibilities for these settlements. As stated previously, the U.S. and the State share responsibility for the firming of 17,448 acre-feet, which is dedicated for future Indian settlements. This responsibility is divided equally (8,724 acre-feet each) between the Secretary and the State.

In September, 2008, Federal legislation was introduced to authorize the White Mountain Apache Tribe (WMAT) water rights settlement and to allow the Secretary to enter into an agreement. In January, 2009, Senator Kyl reintroduced the WMAT bill, the WMAT Water Rights Quantification Act of 2009 (Quantification Act) as S.313. Under the Quantification Act, the AWBA and the Federal government will equally share a 7,500 acre-foot per year firming obligation. The AWBA will therefore, be responsible for firming 3,750 acre-feet of non-Indian agricultural (NIA) CAP water for a 100-year period. All of the water under the WMAT Settlement requiring firming will be leased by the Phoenix valley cities.

Negotiations on the Northeastern Arizona Indian Water Rights Settlement Agreement (Navajo Nation/Hopi Tribe) remain ongoing.

Southside Replenishment Bank

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 for the purpose of establishing the Southside Replenishment Bank (SSR Bank). The AWBA must deliver at least 1,000 acre-feet per year, up to 15,000 acre-feet, to establish the SSR Bank. The SSR Bank will fulfill the obligations created under the Settlements Act for protection of the Reservation from off-reservation groundwater pumping. In 2008, staff coordinated with and presented a draft IGA to the GRIC that describes the procedure the AWBA and the Community will follow for delivering water to the Community for the purpose of this obligation. It is anticipated the IGA will be fully executed by mid-summer, 2009. Deliveries cannot be made to the Community for replenishment purposes without the IGA.

Water Availability and AWBA Legislation

Distribution of Excess CAP Water

Within the last two years, CAWCD has experienced increased requests to purchase excess CAP water for underground storage. The CAWCD Board of Directors recognized this trend and, in 2008, adopted a rate-setting strategy to phase out the price subsidy for incentive recharge after 2011.

Additionally, the Board has directed staff to develop a comprehensive policy for future distribution of Excess Water.

Excess CAP water orders for 2008 received by CAWCD in October, 2007 exceeded the available supply by 100,000 acre-feet. Again, in October, 2008, orders for excess CAP water exceeded the available supply by more than 225,000 acre-feet. CAWCD staff held meetings in the Fall, 2008 to begin developing a policy and process to distribute excess CAP water. The meetings focused on developing procedures quickly for distribution of water in 2009.

In November, 2008, the CAWCD Board of Directors adopted a 2009 policy that reserves two pools and allows distribution of the balance of water remaining. The first pool reserved 81,900 acre-feet for use at GSFs and provided pricing incentives for irrigation districts that participated in the CAP recovery programs or assisted in meeting AWBA/CAGRDR storage goals by participating as GSF partners. This agricultural incentive pricing helps ensure that CAWCD can meet recovery expectations of Metropolitan Water District of Southern California. The AWBA and its GFS facility partners were the main participants in this pool. The second pool was for 45,000 acre-feet for use by the AWBA. This pool was intended to be used to assist Arizona in meeting its Indian firming obligations.

Proposed AWBA Legislation

The recent increase in demand for excess CAP water has limited the excess CAP water available for storage by the AWBA. At the time the settlement legislation was enacted identifying the AWBA as the agent for the State, it appeared there would be an abundance of excess CAP incentive water available for storage by the Water Bank. In October, 2008, the AWBA drafted a legislative amendment that clarifies the AWBA's ability to obtain and store any excess CAP water that is made available by CAWCD.

The first draft of the amendment enumerated five purposes for which the AWBA could participate in pools identified by CAWCD. Overall, the proposed legislation was well-received and supported by the various entities that provided feedback. General comments received from these initial meetings and public review included:

- Clarifying changes to specify replenishment related to Gila River Indian Community.
- Specify interstate banking is for newly acquired water using interstate monies.
- Limiting the volume of excess water set aside for AWBA.
- Ensuring the legislation does not affect priority of the agricultural pool.
- Ensuring the legislation does not allow storage of water for interstate banking that would otherwise have been used in Arizona.

Following receipt of public comment and further analysis by the AWBA, AWBA Commission at the December AWBA meeting, approved submittal of a revised legislative amendment to the Legislature clarifying our existing statutes. The revised amendment clarifies how the Water Bank would participate in two specific pools that could be created by CAWCD. The first pool would be for the various intrastate purposes allowed under our statute, including meeting Indian firming obligations, replenishing water under the Gila River Indian Water Settlement program, and storing water for municipal and industrial purposes in times of shortage. The second pool would be for the purpose of meeting interstate contractual obligations and is specific to the storage of new CAP water acquired from the Colorado River with AWBA interstate funds. Because of the budget issues facing this

legislature the AWBA did not submit the amendment; it is anticipated that the amendment will be submitted for consideration in 2010.

Interstate Banking

Intentionally Created Unused Apportionment (ICUA)

The concept of using ICUA to move a portion of one state's Colorado River apportionment to another State comes from a provision of the Decree in *Arizona v. California* known as Article II.b.6. Article II.b.6 provides discretion to the Secretary of the Interior (Secretary) to deliver any apportioned but unused Colorado River in one Lower Basin state to any other Lower Basin state if that state has a beneficial use for that unused water. The discretion to use ICUA would only apply under a very specific set of circumstances. That set of circumstances apply when one state has stored water in another state and then request the recovery of that water to supplement its Colorado River water apportionment.

In order for this concept to work under the 'Law of the River', the Secretary of the Interior had to promulgate a rule defining how he would apply his discretion under Article II.b.6 and several contracts needed to be in place:

- Offstream Storage of Colorado River Water and Development and Release of Intentionally Created Unused Apportionment

In 1999, the Secretary of the Interior published a rule allowing interstate banking between authorized state entities. The rule required that the authorized state entities enter into agreements for the storage and release of Colorado River water. The AWBA is the only entity in Arizona authorized to negotiate and enter into Interstate Water Storage Agreements. Shortly after the final ruling, the Director of ADWR determined the ruling did not negatively impact Arizona rights under the "Law of the River" thus allowing the AWBA to enter into contracts with the Secretary and the other states.

- Agreement for Interstate Water Banking, 2001;
Superseded by two Amended Agreements for Interstate Water Banking, 2005 & 2009.

Amended Agreement was negotiated between the AWBA, the Southern Nevada Water Authority (SNWA; Nevada) and the Colorado River Commission of Nevada and creates an obligation on the AWBA to guarantee the storage of 1.25 million acre-feet (MAF) credits for the benefit of Nevada in Arizona and to make water available in the future in response to Nevada's requests. For this guarantee and commitment, SNWA agreed to pay the cost of water storage and recovery and to pay \$100 million over and above the cost of storage/recovery. The AWBA began storing water on behalf of SNWA in 2002.

- Storage and Interstate Release Agreement (SIRA), 2002

The SIRA is an agreement among the Secretary of the Interior, the AWBA, the Southern Nevada Water Authority (SNWA; Nevada) and the Colorado River Commission of Nevada and details the accounting of water movement between states in an interstate banking arrangement. This water movement is based on the principles contained in Article II.b.6 of the Decree in *Arizona v. California*. The SIRA also includes provisions for what water can be stored, creation of LTSC

accounts, reporting requirements, mechanism for creation and release of ICUA and certification of ICUA to the Secretary.

- Agreement for the Development of Intentionally Created Unused Apportionment (ICUA), 2002

The Agreement for the Development of ICUA is negotiated between the CAWCD and the AWBA. CAWCD has the right pursuant to its contract with the Secretary to divert any remaining Arizona entitlement and is, therefore, the entity the AWBA coordinates with to ensure water can be made available, under II.b.6 of the Decree, for Nevada and California when they request it in the future. The Agreement details how the water will be recovered and exchanged for existing CAP orders thus allowing CAWCD to reduce its diversions without reducing its uses. Reduced CAP diversion is left in the Colorado River as unused Arizona entitlement available for delivery to Nevada and California. The Agreement requires the Development of an Interstate Recovery Schedule and an Implementation of Interstate Recovery Schedule.

- Amended Letter Agreement for the Creation of Intentionally Created Unused Apportionment with Credits Created Under the 1992 Demonstration Agreement between CAWCD and MWD, December 11, 2007 (Amended Letter Agreement)

The Amended Letter Agreement was executed to facilitate appropriate accounting of Colorado River consumptive use pursuant to the terms of the 1992 Demonstration Agreement as amended between CAWCD and Metropolitan Water District of Southern California (Metropolitan) and allows for long-term storage credits (LTSC; credits) to be recovered and/or exchanged.

Based on the 1992 Demonstration Agreement, amended in 1994, CAWCD stored 89,000 acre-feet of water in Pinal County in the early 1990s, resulting in 80,909 acre-feet of credits that could be recovered for the benefit of Metropolitan. CAWCD agrees to recover and use these credits which, have been held in CAWCD's long-term storage account, in lieu of diverting a like amount of its Colorado River apportionment. The AWBA is party to the agreement because it is the only entity in Arizona that can request the Secretary release ICUA to California and Nevada. CAWCD began recovering water on behalf of Metropolitan in 2007.

Amended Agreement for Interstate Water Banking

No interstate water deliveries were made on behalf of SNWA during 2008. Interstate deliveries had not been included in the original 2008 Plan of Operation. In Spring, 2008, the AWBA amended the Plan of Operation to include an additional 77,000 acre-feet of additional supplies that became available to the Water Bank. Of that amount, 6,400 acre-feet was scheduled to be delivered for interstate storage as this volume had been full cost municipal and industrial (M&I) subcontract water turned back to CAWCD to be remarketed. By Fall, 2008, planned deliveries were much less than anticipated because of unexpected physical and permitted water storage capacity constraints in Pinal and Tucson AMAs where the interstate water was to be stored initially, thereby resulting in no deliveries for Nevada in 2008.

The AWBA sub-account for Nevada had a balance of 527,520 acre-feet of LTSCs at the end of 2008. Of that balance, 50,000 acre-feet of credits were transferred from CAWCD for storage done in the early 1990's under the demonstration project. Annual interstate storage for 2002 through 2008 is displayed in Table 6b.

Development of and Requests for Creation of Intentionally Created Unused Apportionment

For the second year, ICUA was developed in 2008. In December, 2007 the AWBA provided notice to the Bureau of Reclamation (USBR) of 25,000 acre-feet of ICUA to be created in 2008 through the development of LTSC on behalf of Metropolitan. In late December, 2008, the AWBA received an amended schedule from CAWCD that identified an estimated 28,600 acre-feet of recovery for 2008. By year's end, an estimated 28,442 acre-feet of ICUA was developed in 2008 with 27,442 acre-feet of LTSCs recovered from wells used within two irrigation districts in Pinal County, Arizona. The remaining balance of 1,000 acre-feet of ICUA were developed utilizing the credit exchange method. CAWCD exchanged LTSCs with the Central Arizona Groundwater Replenishment District (CAGR) in lieu of CAGR receiving CAP water that had been scheduled for delivery to an underground storage facility. Below is a summary of ICUA developed for the benefit of Metropolitan through 2008.

Development of ICUA for the Benefit of Metropolitan

Year	Long-term Storage Credits		ICUA Developed	Credits Remaining
	Recovered	Exchanged		
				80,909
2007	10,921	5,883	16,804	64,105
2008	27,442	1,000	28,442	35,663
Total	38,363	6,883	45,246	

In addition to the development of ICUA, Metropolitan requested from CAWCD development of 30,000 acre-feet of ICUA in 2009 (letter dated September, 9, 2008). This request for ICUA was included in the AWBA's 2009 Plan of Operation.

Certification of Intentionally Created Unused Apportionment

For the first time, ICUA was certified in 2008. AWBA is required to certify the creation of ICUA to the Secretary, Metropolitan, and CAWCD in the year following development of the ICUA. In June, 2008, the AWBA certified the creation of 16,804 acre-feet of ICUA in 2007, following the review of annual reports and verification by ADWR of the recovery and exchange of LTSCs in 2007.

Shortage Sharing*Arizona-Nevada Shortage-Sharing Agreement*

As part of the overall Basin States Agreement, signed by the Secretary of the Interior on December 13, 2007, Arizona, including the AWBA, and Nevada agreed on how Secretarial shortage declarations of up to 500,000 acre-feet within the United States would be shared between them during an Interim Period (2008 through 2026). In addition to the agreement on how shortages should be allocated between the states, Southern Nevada Water Authority (SNWA) also agreed to provide to the AWBA \$8,000,000 to assist Arizona in offsetting impacts from shortages that may occur during the Interim Period. A portion of the \$8,000,000 (\$2.3 million) was transmitted to the AWBA in 2008. These funds were used to purchase and store water supplies to mitigate the impact of shortages on Arizona users.

Leading up to the execution of the Arizona-Nevada Shortage-Sharing Agreement, the Director's Shortage-Sharing Workgroup (Workgroup) established in 2005 was meeting regularly to come up with recommendations to present to the Secretary of the Interior for implementing future shortages in the lower basin and between CAWCD and equivalent 4th priority Colorado River water users. The Basin States Agreement incorporated much of Arizona's recommendations on shortage-sharing strategies either directly or as components to modeling analyses that were used to evaluate environmental impacts.

As part of the recommendation of the Workgroup, a provision was included to establish a "revolving fund" for the credits used and replaced in conjunction with on-river M&I firming. In March, 2008, the AWBA executed Resolution 2008-1 that establishes a LTSC replacement account for 4th priority Colorado River M&I users. As credits are used and replaced, these replacement credits will be placed in a separate replacement subaccount and be earmarked for the entity that reimburses the Water Bank for the replacement of those credits. Additionally, on-river fourth priority M&I users that had not contracted with the AWBA for firming will be given additional opportunities for firming 100% of their entitlements.

Agreement to Firm Future Supplies

The AWBA is required by statute to reserve a reasonable number of credits accrued with General Fund appropriations for entities outside the CAWCD service area. In 2005, the AWBA entered into an Agreement to Firm Future Supplies (Agreement to Firm) with Mohave County Water Authority (MCWA). In the Agreement to Firm, the AWBA agreed to reserve approximately 230,000 acre-feet of credits for MCWA's use. The Mohave County Water Authority agreed to make a \$20 per acre-foot pre-payment of the replacement cost for those credits.

Once those credits were reserved for use by an entity outside of the three-county service area, CAWCD was required to charge the AWBA a fee in lieu of taxes. CAWCD has set the in lieu tax rate at \$20 per acre-foot for AWBA. The AWBA use monies collected from Mohave County Water Authority to make these payments.

Recovery

CAWCD staff continued their planning efforts for the recovery of credits accrued by the AWBA. For the second year, the CAWCD continued recovering credits previously stored in Pinal County for the benefit of Metropolitan. Recovery in 2008 occurred from two irrigation districts in Pinal County; Central Arizona Irrigation and Drainage District (CAIDD) recovered 13,380 acre-feet and Maricopa-Stanfield Irrigation & Drainage District (MSIDD) recovered 14,062 acre-feet.

In 2008, CAWCD began evaluating future recovery options for the Phoenix, Pinal, and Tucson AMAs and began stakeholder discussions on detailed recovery plans, well capacity, and recovery agreements. CAWCD has proposed several general concepts for recovering stored water. Indirect recovery will use available capacity in wells to pump groundwater that, when recovered, will be counted as CAP water delivered to CAWCD customers. Direct recover will use wells that deliver water back to the CAP canal for delivery through the CAP system. Credit exchange recovery entails assigning stored credits to a CAP customer who meets certain criteria. Other concepts are also

DRAFT 6-16-09

being considered. Two studies commenced that evaluate withdrawals of groundwater from several strategic locations. CAWCD staff anticipates completion of the recovery plan by the end of 2009.

Agreement and Facility Permit Activity

In 2008, the AWBA did not execute any new water storage agreements or any water storage permits. Throughout the year, the AWBA worked on draft renewal agreements for water storage at the Gila River Indian Irrigation & Drainage District (GRIIDD) GSF and the Central Avra Valley Storage and Recovery Project (CAVSARP). The CAVSARP agreement also includes provisions for the Southern Avra Valley Storage and Recovery Project (SAVSARP). The GRIIDD and CAVSARP/SAVSARP water storage agreements are expected to be executed in 2009.

At the December AWBA meeting, the Commission approved the renewal of the intergovernmental agreement (IGA) between ADWR, CAWCD and the AWBA that establishes the AWBA's cost for services provided by CAWCD and ADWR. The IGA is expected to be executed in 2009.

2009 Annual Plan of Operation

Pursuant to the initial 2009 Plan approved in December, 2008, projected recharge for the AWBA was 118,523 acre-feet. Of this quantity, 9,000 acre-feet were projected to be recharged at USFs and 109,523 acre-feet were projected to be recharged at GSFs. Recharge for interstate storage was not included in this amount.

In the spring of 2009, the AWBA was informed by CAWCD that an estimated 15,000 acre-feet in additional supplies could potentially be made available to the AWBA due to scheduled deliveries that had been turned back. In April, 2009, the AWBA adopted an amended Plan of Operation that includes an additional 15,124 acre-feet of intrastate deliveries to be stored in the Tucson AMA, reclassifies 25,000 acre-feet of intrastate deliveries to interstate deliveries in the Pinal AMA, and increases intrastate deliveries to the Phoenix AMA by 4,000 acre-feet. The 2009 Amended Plan of Operation is available on the AWBA website.

Website

Staff continue to update the recently enhanced AWBA website to provide timely and accurate information regarding the AWBA's activities to the water community: www.azwaterbank.gov. The web page contains information about the AWBA, Commission members and staff, announcements, meetings, storage facilities and water deliveries. It also contains documents that may be downloaded and provides links to other water-related websites.

Monies Expended from the Banking Fund

Arizona Revised Statutes §45-2425 mandates the various sources of monies for the Water Banking Fund (Fund) that is administered by the AWBA per the statute. In 2008, the AWBA obtained its funding from the following sources:

1. Fees for groundwater pumping are collected within the Phoenix, Pinal and Tucson AMAs. Fees for water banking purposes are charged at \$2.50 per acre-foot. Legislative changes allow for groundwater withdrawal fees to be collected and available to the AWBA beyond 2016 (A.R.S. §45-611(c)(3)). Long-term storage credits accrued with these monies must be used to benefit the AMA in which they were collected.
2. The CAWCD is statutorily authorized through 2016 to levy an *ad valorem* property tax in the three-county CAP service area that cannot exceed four cents per \$100 of assessed valuation and is used either for repayment or OM&R costs of the CAP. If the taxes levied are not needed for those purposes, an annual resolution of the CAWCD board can direct them to the Fund. In June of 2007, the CAWCD board again resolved that all taxes to be levied for the following tax year would be retained by the CAWCD. Consequently, there were no *ad valorem* tax revenues deposited into the Fund in 2008. All *ad valorem* monies previously held in the AWBA Fund have now been expended. Money from this source must be used to benefit the county in which it was collected.
3. The Arizona Legislature provided an initial appropriation of \$13.5 million in October, 2006 to assist the AWBA in meeting the State's obligation under the Settlements Act. These monies must be used to carry out state obligations related to Indian Firming and were not to be expended until after the enforceability date (December 14, 2007) of the Settlements Act. In July, 2008, House Bill 2209 transferred \$12.4 million of the initial appropriation from the Arizona Water Banking Fund.
4. Mohave County Water Authority (MCWA) agreed to prepay the AWBA to set aside 230,280 acre-feet of credits that were transferred to a sub-account in MCWA's name pursuant to the Agreement to Firm. Since those credits were reserved for use by an entity outside the three-county service area, CAWCD is required to charge the AWBA a fee in lieu of taxes. Monies collected from MCWA are used to offset these CAWCD fees which are charged at the same rate and on the same quarterly schedule as MCWA's prepayments to the AWBA.
5. Pursuant to the Agreement for Interstate Water Banking executed in 2001, \$10,053,945 was collected from the Southern Nevada Water Authority (SNWA) and used to purchase water on behalf of Nevada. Pursuant to the Amended Agreement for Interstate Water Banking (Amended Agreement), \$100 million was received from SNWA in 2005 and deposited into the Nevada sub-account (Resource Account) of the Fund. Water was not available to the AWBA for interstate banking in 2008. Monies from this source were not used for interstate water banking in 2008 because no water was available to the AWBA for interstate storage. Pursuant to the Amended Agreement, SNWA is scheduled to begin making payments of \$23 million to the Operating Account.

Table 1 shows the money the AWBA collected and the money that was expended for delivery and storage of water in 2008 by source of funds. Table 2 shows the total money received, expended and remaining through December 2008 by source of funds. Any remaining money is available to be expended in subsequent years; any interest that accrues on this money is available for use.

Table 1. Monies Collected and Expended in 2008 by Source of Funds

Source of Funds	Money Collected	Money Expended
General Funds	\$0	\$0
In-Lieu Fund – MCWA Prepayments	\$921,120	\$921,120
State Indian Firming¹	\$510,225	\$2,033,354
Interstate Water Banking - NV	\$0	\$0
Shortage Reparations - NV	\$2,307,925	\$2,307,925
4¢ Ad valorem Tax²		
Maricopa County	\$0	\$786,573
Pinal County	\$0	\$62,000
Pima County	\$0	\$343,893
Subtotal for Ad valorem	\$0	\$1,192,466
Groundwater Withdrawal Fees		
Phoenix AMA	\$2,067,844	\$1,693,612
Pinal AMA	\$1,476,018	\$849,240
Tucson AMA	\$462,667	\$91,503
Subtotal for Withdrawal Fees	\$4,006,529	\$2,634,355
TOTAL	\$7,745,800	\$9,089,220

¹ Amount shown is interest earnings.

² Money expended by CAWCD to offset the AWBA delivery costs.

Table 2. Monies Collected and Expended through December 2008 and Monies Remaining Available

Source of Funds	Money Collected	Money Expended	Money Available ¹
General Funds	\$11,100,865	\$11,100,865	\$0
In-Lieu Fund - MCWA Pre-payments	\$2,763,360	\$2,763,360	\$0
State Indian Firming²	\$2,299,465	\$2,033,354	\$266,110
Interstate Water Banking-NV	\$110,053,945	\$94,480,618	\$15,573,327
Shortage Reparations - NV	\$2,307,925	\$2,307,925	\$0
4¢ Ad valorem Tax³			
Maricopa County	\$136,695,601	\$58,767,801	\$77,927,800
Pinal County	\$5,566,336	\$3,775,865	\$1,790,471
Pima County	\$27,597,955	\$19,427,263	\$8,170,692
Subtotal for Ad valorem	\$169,859,892	\$81,970,929	\$87,888,963
Groundwater Withdrawal Fees			
Phoenix AMA ²	\$15,093,029	\$14,713,676	\$379,353
Pinal AMA	\$12,637,440	\$11,799,167	\$838,273
Tucson AMA	\$6,494,345	\$6,122,610	\$371,734
Subtotal for Withdrawal Fees	\$34,224,813	\$32,635,453	\$1,589,361
TOTAL	\$332,610,265	\$227,292,498	\$105,317,767

¹ Money remaining in AWBA Fund or collected by CAWCD; includes monies committed for the 2009 Amended Plan of Operation.

² Total money collected was decreased to reflect legislative transfers in FY 2004, FY 2005, and FY 2009.

³ Includes money collected and money expended by CAWCD and used to offset the AWBA delivery costs.

Long-term Storage Credits

The AWBA has established long-term storage credit (LTSC) accounts with ADWR. The Phoenix AMA account number is 70-441150, the Pinal AMA account number is 70-431135, and the Tucson AMA account number is 70-411150. After receiving the AWBA's annual reports for its water storage and water transfer permits and the annual reports for the recharge facilities, ADWR calculates and issues LTSCs to the appropriate accounts. The AWBA receives credit for 95% of the recoverable quantity of stored water. The 5% that is not credited is termed the cut to the aquifer and provides additional groundwater replenishment benefits. This cut to the aquifer is mandated by statute and applies to most storage of water for long-term credit. The recoverable amount of stored water is determined by subtracting facility losses from the quantity of water delivered to the facility. After credits are issued to the account, AWBA staff allocate the credits to the appropriate sub-accounts based on source of funding. The number and distribution of LTSCs for 2008 are listed in Table 3. The cumulative totals of LTSCs accrued by the AWBA through December 2008 are listed in Table 4.

Table 3. Number and Location of Long-term Storage Credits Accrued in 2008

Location and Funding Source	Long-term Storage Credits Accrued (AF)
Phoenix AMA	
4¢ Ad valorem Tax	12,592
Groundwater Withdrawal Fee	42,311
General Fund	0
Indian Firming	0
Shortage Reparations	20,642
Interstate - Nevada	0
AMA Total	75,545
Pinal AMA	
4¢ Ad valorem Tax	2,863
Groundwater Withdrawal Fee	36,966
General Fund	0
Indian Firming	0
Shortage Reparations	55,751
Interstate - Nevada	0
AMA Total	95,581
Tucson AMA	
4¢ Ad valorem Tax	4,982
Groundwater Withdrawal Fee	1,326
General Fund	0
Indian Firming	25,756
Shortage Reparations	0
Interstate - Nevada	0
AMA Total	32,063
Totals by Funding Source	
4¢ Ad valorem Tax	20,437
Groundwater Withdrawal Fee	80,603
General Fund	0
Indian Firming	25,756
Shortage Reparations	76,393
Interstate - Nevada	0
TOTAL	203,189

Table 4. Cumulative Total and Location of Long-term Storage Credits Accrued through December 2008

Location and Funding Source		Long-term Storage Credits Accrued (AF)
Phoenix AMA		
	4¢ <i>Ad valorem</i> Tax	1,106,740
	Groundwater Withdrawal Fee	261,363
	General Fund	42,316
	Indian Firming	0
	Shortage Reparations	20,642
	Interstate Water Banking - Nevada	23,820
	AMA Total	1,454,881
Pinal AMA		
	4¢ <i>Ad valorem</i> Tax	122,395
	Groundwater Withdrawal Fee	357,931
	General Fund	306,968
	Indian Firming	0
	Shortage Reparations	55,751
	Interstate Water Banking - Nevada	415,244
	AMA Total	1,258,288
Tucson AMA		
	4¢ <i>Ad valorem</i> Tax	249,901
	Groundwater Withdrawal Fee	85,139
	General Fund	54,546
	Indian Firming	25,756
	Shortage Reparations	0
	Interstate Water Banking - Nevada	88,456
	AMA Total	503,798
Totals by Source of Funds		
	4¢ <i>Ad valorem</i> Tax	1,479,036
	Groundwater Withdrawal Fee	704,433
	General Fund ¹	403,830
	Indian Firming	25,756
	Shortage Reparations	76,393
	Interstate Water Banking - Nevada	527,520
	TOTAL	3,216,967

¹ By resolution passed in 2002, the AWBA established on-river firming as the highest priority of use for credits accrued through expenditure of general fund appropriations. Pursuant to the AWBA Agreement to Firm with the Mohave County Water Authority (MCWA) dated February 4, 2005, a total of 230,280 acre-feet of credits were transferred to the AWBA long-term storage subaccount for the MCWA in 2005. By resolution passed in 2008, the AWBA established a replacement account for 4th priority Colorado River M&I users.

Since inception, the AWBA has focused its efforts on developing LTSCs for firming purposes and the AWBA has identified 2,700,000 acre-feet of LTSCs as reasonable to firm the CAP M&I subcontracts over the next 100 years. This volume would be divided as 58% to Maricopa County, 32% to Pima County and 9% to Pinal County based on a pro-rata distribution to the three counties on the basis of CAP M&I subcontracts. The AWBA has also identified 420,000 acre-feet of LTSCs as reasonable to firm the on-river communities over the next 100 years. In 2002, the AWBA adopted a resolution that identified on-river firming as the highest priority of use for the general fund credits and established priorities for other uses (Indian settlements, etc.). Consequently, all or part of the general fund credits

could be utilized to firm on-river M&I users. It should be noted that the AWBA collects reimbursement for the replacement cost of credits used for on-river firming. In March, 2008, the AWBA executed Resolution 2008-1 that establishes a LTSC replacement account for 4th priority Colorado River M&I users. As credits are used and replaced, these replacement credits will be placed in a separate replacement subaccount and be earmarked for the entity that reimburses the Water Bank for the replacement of those credits. Table 5 illustrates the progress made by the AWBA towards meeting its established goals.

Table 5 also identifies the estimated remaining costs for meeting the AWBA's goals and obligations. These estimates are developed based on the assumptions contained in the AWBA's ten-year plan for 2010-2019. For obligations that are not met in the ten-year plan, 2020 estimated costs were assumed when calculating the amount remaining to meet the goals. As illustrated in Table 8 of the ten-year plan, most of the goals will be met during the next ten years. Those not met include the Tucson AMA and on-river M&I firming goals, and the Nevada contract obligation. Approximately 74% of the Tucson AMA firming goal will have been met by 2019. Since all of the *ad valorem* tax monies will have been expended by 2016, the AWBA will need to rely on withdrawal fees to meet the remainder of this firming goal. Because revenue from withdrawal fees is limited in the Tucson AMA (less than \$500k/yr), the firming goal would not be met until well beyond 2025. Therefore, estimated rates for 2020 were used to calculate the total remaining costs for the Tucson AMA firming goal. Expenditures under the ten-year plan are estimated at \$48 million, utilizing *ad valorem* tax monies (\$43 million) and withdrawal fees (\$5 million), and the remaining costs are estimated at \$47 million for a total cost of \$95 million. Likewise, because it is not known if or when the AWBA will receive general fund appropriations in the future, the same method was applied to calculate the remaining on-river firming costs. It was also assumed that storage for on-river firming purposes would be at GSFs. However, because funding is not the limiting factor for meeting the Nevada contract obligation, a different assumption was used. Interstate storage costs for the ten-year plan are estimated at \$10 million. It was assumed that at least 90,000 acre-feet could be stored annually at the Pinal GSFs beyond 2019 until the contract obligation is met. Using this assumption, the remaining costs after 2019 are estimated at \$126 million with the obligation being met by 2027. Lastly, the remaining costs for meeting the Indian firming goals were estimated by assuming that because the M&I firming goals could be met using *ad valorem* taxes, all withdrawal fee credits accrued in the Phoenix and Pinal AMAs in the next ten years would be applied toward meeting these goals. Existing withdrawal fee credits in the Pinal AMA, including credits accrued from storage at the Gila River Indian Irrigation and Drainage District (GRIIDD) GSF, could be used to meet the remaining GRIC firming goal and existing withdrawal fee credits from the Phoenix AMA could be used to meet the firming goal for future Indian settlements. Because funding has already been expended for these credits, they were not included in the calculation for remaining costs.

The average annual cost for the AWBA to obtain one acre-foot of LTSCs for intrastate and interstate storage is presented in Tables 6a and 6b, respectively. Table 6a illustrates that the unit cost per LTSC for intrastate storage fluctuates yearly. The unit cost per LTSC generally trended up since inception of the AWBA to 2006, then decreased in 2007 and 2008. Increases are typically a function of three primary factors: annual increases in the cost per acre-foot of water delivered, annual increases in the cost of storage facilities and the mix of storage between USFs and GSFs. Decreases are typically a function of annual decreases in the cost per acre-foot of water delivered and the mix of storage between USFs and GSFs. Similarly, Table 6b illustrates that the unit cost per LTSC for interstate storage increased each year between 2002 and 2005 and then decreased in 2006 and 2007. Although the unit cost of developing interstate LTSCs is also influenced by the same factors as intrastate storage, interstate storage is additionally affected by the fluctuating cost of energy.

Table 5. Identified Uses of Long-term Storage Credits Accrued through December 2008 and Percentage of AWBA Goals Achieved

Location and Objective	Funding Source	Goal	Obligation	Non-Credit Goal/Oblig. Achieved	Credits Accrued (AF)	Percent Goal/Oblig. Achieved	Estimated ¹ Remaining Costs (\$ Million)
Phoenix AMA M&I Firming Groundwater Mgmt ²	<i>Ad valorem</i> tax Withdrawal Fees	1,566,000 AF			1,106,740 261,363	71% 87%	\$71
Pinal AMA M&I Firming Groundwater Mgmt ²	<i>Ad valorem</i> tax Withdrawal Fees	243,000 AF			120,857 359,468	50% 198%	\$10
Tucson AMA M&I Firming Groundwater Mgmt ²	<i>Ad valorem</i> tax Withdrawal Fees	864,000 AF			249,907 85,134	29% 39%	\$43 \$51
On-River M&I Firming³	General Fund	420,000 AF			403,830	96%	\$2
Indian Settlements: GRIC Firming Phoenix AMA Pinal AMA	Withdrawal Fees	350,000 AF ⁴	up to 15,000 AF/YR		0	0%	\$9
Future Settlements	Withdrawal Fees	200,000 AF ⁴	up to 8,724 AF/YR		0	N/A	\$18
Federal Assistance ⁵ SAWRSA	Appropriation Withdrawal Fees		\$3,000,000	\$2,048,237 \$2,048,237 \$0	25,756 25,756 \$0	68%	\$0.95
Southside Repl. Bank	Withdrawal Fees		15,000 AF Direct Delivery		0	0%	\$2
Interstate Water Banking - NV	Contract with Nevada		1,250,000 AF ⁶		527,520	42%	\$136
Shortage Repairs- Nevada	Gifts, Grants, Donations	\$8,000,000		\$2,307,919	76,393	29%	\$5.7

¹ Based on the ten-year plan and an assumed rate escalation of 2% for water delivery costs and 1% for facility costs after 2014.

² Withdrawal fees could be utilized in addition to 4¢ *ad valorem* tax revenues for M&I firming if needed to reach firming goals.

³ By resolution passed in 2002, the AWBA established on-river firming as the highest priority of use for credits accrued through expenditure of general fund appropriations. Pursuant to the AWBA Agreement to Firm with the Mohave County Water Authority (MCWA) dated February 4, 2005, a total of 230,280 acre-feet of credits were transferred to the AWBA long-term storage subaccount for the MCWA in 2005.

⁴ Based on estimates from the Indian Firming Study Commission Report dated January 6, 2006.

⁵ Expenditures under the \$3 million include \$14,883 deducted for payment of cost of services.

⁶ Pursuant to the Amended Agreement for Interstate Water Banking, the AWBA has committed to have this number of long-term storage credits within the Nevada subaccount.

Table 6a. Average Annual Cost for the AWBA to Obtain a Long-term Storage Credit for Intrastate Storage

Year	Credits ¹	Funds Expended	Average Cost (per acre-foot)	% Stored in GSF: % Stored in USF
1996	None	None	\$0	0% : 0%
1997	296,987	\$6,387,000	\$21.51	85% : 15%
1998	202,542	\$7,143,000	\$35.27	68% : 32%
1999	232,142	\$8,733,000	\$37.61	68% : 32%
2000	272,123	\$11,163,000	\$41.02	60% : 40%
2001	275,406	\$10,893,590	\$39.55	62% : 38%
2002	262,317	\$13,700,300	\$52.23	64% : 36%
2003	200,168	\$11,077,666	\$55.34	47% : 53%
2004	251,456	\$17,855,997	\$71.01	41% : 59%
2005	85,782	\$5,615,201	\$65.46	58% : 42%
2006	162,340	\$14,782,313	\$91.06	17% : 83%
2007	245,129	\$15,641,702	\$63.81	37% : 63%
2008	203,189	\$8,168,094	\$40.20	65% : 35%

¹ Information in this table is reconciled on an annual basis.

Table 6b. Average Annual Cost for the AWBA to Obtain a Long-term Storage Credit for Storage on Behalf of Nevada

Year	Credits	Funds Expended	Average Cost (per acre-foot)	% Stored in GSF: % Stored in USF
2002	61,098	\$8,617,393	\$141.04	100% : 0%
2003	50,000 ¹			
2004	14,162	\$2,899,647	\$204.75	66% : 34%
2005	111,805	\$25,723,366	\$230.07	65% : 35%
2006	175,569	\$35,386,306	\$201.55	68% : 32%
2007	114,886	\$21,853,906	\$190.22	91% : 09%
2008	None	None	\$0	0% : 0%

¹ Long-term Storage Credits transferred from CAWCD.

Long-term Storage Credits Distributed or Extinguished by the Authority

The long-term storage credits (LTSCs) developed by the AWBA to date have been identified as reserved for five purposes: firming the post-1968 Colorado River municipal and industrial (M&I) entitlements; firming the post-1968 M&I entitlements for entities outside the CAWCD service area; firming for the Federal obligation under the Settlements Act; fulfilling the water management objectives set forth in Chapter 2 of Title 45 (Arizona Revised Statutes); and for interstate water banking purposes pursuant to agreements with Nevada. Credits for firming purposes may be distributed or extinguished when the Colorado River system is deemed to be in a shortage or if there is an operational disruption of the CAP. There were no shortages or unplanned CAP operational problems, therefore, no credits were distributed or extinguished for these purposes in 2008. While credits have been developed using withdrawal fees, which are credits that can be used for water management purposes, no credits were distributed or extinguished in 2008.

Under the 1999 amendments to the AWBA legislation, the AWBA is authorized to develop credits with monies collected pursuant to water banking services agreements. In 2008, no credits were developed or distributed under such agreements.

There was recovery of LTSCs previously stored by CAWCD on behalf of Metropolitan in 2008. These credits were recovered by CAWCD and extinguished from their long-term storage account.

Ten-Year Plan

Introduction

Preparation of the ten-year plan is statutorily mandated. The ten-year plan must include a description of any water banking activities the AWBA intends to undertake in addition to the three primary AWBA functions of firming for M&I supplies, assisting in Indian water rights settlements, and fulfilling state water management objectives. The ten-year plan is presented in Table 7. The ten-year plan must also provide an analysis of the AWBA's ability to complete those activities. This analysis is provided in Table 8. The ten-year plan is not a guarantee of future storage activities and is completed for planning purposes only. In any given year, the AWBA's activities are governed by the annual Plan of Operation.

The ten-year plan analyzes activity for the period 2010-2019 (Table 7) and was derived using the information found in Appendices B through J. AWBA accounting for previous years can be found in the 2007 Annual Report and 2009 Plan of Operation. AWBA staff developed the ten-year plan based on the following guiding principles:

1. The intent of the plan is to evaluate if the AWBA can engage in water banking activities beyond the scope of the currently established AWBA role and to what extent.
2. The plan covers a ten-year time period beginning with the next calendar year. For example, this ten-year plan covers the time period 2010-2019.
3. The plan is updated annually based on current priorities of the AWBA.
4. The plan is an important tool to be utilized in development of the next year's annual Plan of Operation.

Ten-Year Plan Components

The following factors are recognized to be important elements in developing the model used to generate the ten-year plan. Inclusion or exclusion of a specific factor or component of a factor was based on whether the extent of the effect of the factor could be predicted over the planning period, and whether the factor was anticipated to be at issue over the planning period.

1. Storage Partners and Storage Capacity

The AWBA currently has 13 water storage permits for GSFs with a total permitted storage capacity of 718,846 acre-feet per year. Of these, two are water storage permits for the Gila River Indian Irrigation and Drainage District (GRIIDD) GSF with a total combined permit capacity of 56,000 acre-feet. While the GSF is permitted to operate until December 31, 2010, it may only operate while it meets the statutory requirements for operating a GSF. In 2010, the Secretary will begin offsetting the water delivery costs to the GRIIDD, thereby making the cost of CAP water reasonably available. In doing so, the permit conditions for operating the GSF will no longer be met resulting in the termination of the facility. Therefore, this ten-year plan does not utilize the GRIIDD GSF. In addition, because most of the GSF operators in the Phoenix and Tucson AMAs have not partnered with the AWBA in the past several years, storage at these facilities has also not been included in this ten-year plan.

Most of the GSF permits will expire within this ten-year plan. In most instances, the AWBA's water storage permits and agreements will also expire. Although the AWBA has not stored water at many of these GSFs in the past few years, it will still pursue renewals of its permits and agreements with those GSF operators who are interested in potential future partnerships with the AWBA. By renewing these permits it could potentially provide additional storage capacity when needed.

The AWBA currently has 11 water storage permits for USFs with a total permitted storage capacity of 711,000 acre-feet per year. The GRUSP, Avra Valley, and Lower Santa Cruz USF permits will expire on December 2010, March 2018 and February 2019, respectively. Any difficulty in obtaining new permits could impact the capacity available to the AWBA. However, impacts of this nature cannot be predicted and were discounted in the analysis of this ten-year plan.

As with the GSFs, all of the agreements for water storage at these USFs will expire within this ten-year planning period. Although the AWBA has current water storage permits for the GRUSP and Vidler USFs, the AWBA's water storage agreements with these facility operators have expired. Thus storage at these two facilities has not been included in this ten-year plan.

Appendix C describes the storage partners, storage permits, and capacity available for use by the AWBA. It also identifies the partners that the AWBA included in development of this ten-year plan.

Table 7. Ten-year plan

ARIZONA WATER BANKING AUTHORITY – Ten-Year Plan 2009 – 2018 (Acre-feet)																
YEAR	(a)	(b)		(c)		(d)		(e)		(f)		(g) (h) (i) (j) (k)				
	CAP Water Avail for AWBA	CAP M&I Firming (4¢ tax)		Water Management (Withdrawal Fees)		Appropriation from General Fund		Shortage Repairs (\$8 Million)		Indian Settlement		Interstate Banking				
		Del.	Credits	Del.	Credits	Del.	Credits	Del.	Credits	Del.	Credits	Water Avail.	AWBA Capacity Avail.	Credits	ICUA	Remaining Credits
Pre-Plan ^(h)	n/a	1,571,714		638,254		403,830		76,393		105,993				550,770		
2010	147,955	110,751	102,998	4,115	2,897	0	0	0	0	33,089	30,772	0	120,645	0	0	550,770
2011	144,316	116,339	108,196	3,990	2,780	0	0	0	0	23,987	22,308	0	126,884	0	0	550,770
2012	142,625	94,808	88,171	9,042	2,829	0	0	21,833	20,305	16,942	15,756	0	125,542	0	0	530,770
2013	139,421	93,748	87,186	8,869	2,669	0	0	21,012	19,541	15,791	14,686	0	145,314	0	20,000	500,770
2014	135,650	109,586	101,915	2,770	2,576	0	0	0	0	23,293	21,663	0	184,550	0	30,000	460,770
2015	131,839	106,654	99,189	2,718	2,527	0	0	0	0	22,467	20,894	0	186,361	0	40,000	420,770
2016	128,067	103,289	96,059	2,666	2,479	0	0	0	0	22,112	20,565	0	191,018	0	40,000	380,770
2017	126,688	82,054	76,310	2,615	2,432	0	0	0	0	22,247	20,690	19,772	212,052	18,388	40,000	359,158
2018	126,472	81,755	76,032	2,565	2,385	0	0	0	0	21,850	20,320	20,302	212,184	18,881	40,000	338,039
2019	122,778	81,485	76,032	2,516	2,340	0	0	0	0	21,394	19,725	17,383	212,388	16,166	40,000	314,206
TOTAL		2,483,802		664,168		403,830		116,239		313,372				604,205		

FOOTNOTES:

- (a) Assumes AWBA Pool of 175KAF less CAGR projected replenishment reserve uses. See Appendix B.
- (b) See Appendix D.
- (c) See Appendix E. Includes direct delivery of 1,000 AF of water in 2010 and 2011 and 6,000AF of water in 2012 and 2013 to meet the remaining Southside Replenishment obligation of 14,000 AF.
- (d) See Appendix F.
- (e) See Appendix G.
- (f) See Appendix H. A.R.S. §45-2491(B)(2) allows for the use of withdrawal fees after legislative appropriations for Indian firming have been expended. Withdrawal fee credits accrued in the Phoenix and Pinal AMAs could be utilized to meet this obligation. The State Indian settlement firming obligation is estimated at 550,000 AF. In addition, 34,126 AF of credits are accrued to meet the State's obligation under Section 306 of the AZ Water Settlement's Act (\$3 million for Federal assistance).
- (g) Available AWBA CAP supplies minus intrastate deliveries.
- (h) See Appendix I.
- (i) Cumulative totals for 1997-2009; 2008 are actual credits and 2009 are estimated based on projected deliveries.
- (j) Assumes maximum allowable recovery pursuant to the Second Amended Agreement for Interstate Banking.
- (k) Credits remaining available in Nevada sub-account after recovery.

Table 8. AWBA Percentage of Goals Achieved through 2019

Location and Objective	Funding Source	Goal	Obligation	Non-Credit Goal/Oblig. Achieved	Credits ¹ Accrued (AF)	Percent Goal/Oblig. Achieved
Phoenix AMA M&I Firming ² Groundwater Mgmt ³	<i>Ad valorem</i> tax Withdrawal Fees	1,566,000 AF			1,716,940 138,659	110%
Pinal AMA M&I Firming ² Groundwater Mgmt ³	<i>Ad valorem</i> tax Withdrawal Fees	243,000 AF			244,927 137,999	101%
Tucson AMA M&I Firming Groundwater Mgmt ³	<i>Ad valorem</i> tax Withdrawal Fees	864,000 AF			521,935 116,741	60% 74%
On-River M&I Firming⁴	General Fund	420,000 AF			403,830	96%
Indian Settlements⁵ GRIC Firming Phoenix AMA Pinal AMA	Withdrawal Fees	350,000 AF ⁶	up to 15,000 AF/YR		350,000 54,789 295,211	100%
Future Settlements	Withdrawal Fees	200,000 AF ⁶	up to 8,724 AF/YR		200,000	N/A
Federal Assistance SAWRSA	Appropriation Withdrawal Fees		\$3,000,000	\$3,000,000 \$2,332,051 \$667,949	34,126 28,246 5,880	100%
Southside Repl. Bank	Withdrawal Fees		15,000 AF Direct Delivery	15,000 AF	0	100%
Interstate Water Banking - NV	Contract with Nevada		1,250,000 AF ⁷		604,205	48%
Shortage Repairs- Nevada	Gifts, Grants, Donations	\$8,000,000		\$8,000,000	116,239	100%

¹ 1997-2009; actual credits through 2008 and estimated credits for 2009 based on projected deliveries.

² The M&I firming goal for the Phoenix AMA is met in 2018 and the M&I firming goal for the Pinal AMA is met in 2016. The firming goals may be exceeded if monies, water, and capacity are available.

³ Pursuant to House Bill 2835, firming M&I supplies is a water management objective for the use of credits developed by groundwater withdrawal fees. By utilizing withdrawal credits in the Tucson AMA, 74% of the M&I firming goal will be met by 2019.

⁴ By resolution passed in 2002, the AWBA established on-river firming as the highest priority of use for credits accrued through expenditure of general fund appropriations. Pursuant to the AWBA Agreement to Firm with the Mohave County Water Authority (MCWA) dated February 4, 2005, a total of 230,280 acre-feet of credits were transferred to the AWBA long-term-storage sub-account for the MCWA in 2005.

⁵ A.R.S. §45-2491(B)(2) allows for the use of withdrawal fees after legislative appropriations for Indian firming have been expended. By utilizing credits accrued from storage at the GRIIDD and credits accrued from withdrawal fees in the Pinal and Phoenix AMAs in this ten-year plan, about 42% of the GRIC and 66% of the future settlement firming goals are estimated to be met in 2019. Existing withdrawal fee credits from the Pinal and Phoenix AMAs were used to meet the remainder of the firming goals for the GRIC and future settlements, respectively.

⁶ Based on estimates from the Indian Firming Study Commission Report dated January 6, 2006.

⁷ Pursuant to the Amended Agreement for Interstate Water Banking, the AWBA has committed to accrue 1,250,000 acre-feet of credits on behalf of the Southern Nevada Water Authority.

2. Recovery

This ten-year plan includes a recovery component for interstate purposes pursuant to the Second Amended Agreement for Interstate Water Banking (Second Amended Agreement) executed in April of 2009. The Second Amended Agreement authorized Nevada to request development of intentionally created unused apportionment (ICUA), if needed, as follows: in the initial year, an amount not exceeding 20,000 acre-feet; the second year, an amount not exceeding 30,000 acre-feet; and in subsequent years, an amount not exceeding 40,000 acre-feet. This ten-year plan also includes a recovery component for the development of ICUA for California pursuant to the Amended Letter Agreement between the Metropolitan Water District of Southern California (Metropolitan), CAWCD and AWBA discussed earlier. The Amended Letter Agreement allows for the creation of ICUA through recovery and the credit exchange method. Of the initial 80,909 acre-feet of credits held by CAWCD on behalf of Metropolitan, approximately 5,600 acre-feet of credits remain available for recovery during this ten-year plan. Recovery of these credits is the responsibility of CAWCD and will occur in the Pinal AMA.

This ten-year plan does not include any shortage years based on model analysis. While shortages are possible during the next ten years, the probability is low that shortages will actually occur. If shortages do occur however, they would impact the ten-year plan. The major impact to the plan would be significant reductions in supplies in the shortage years. The AWBA has the lowest priority for CAP water so any reduction in CAP supplies would impact the AWBA first. A shortage would also cause the recovery of credits to meet firming obligations. It is not likely that credits would have to be recovered to firm CAP M&I supplies because there should be enough lower priority CAP water to absorb any shortage during the next ten years. On-river M&I and NIA water being delivered pursuant to Indian settlements could be at risk. Reductions to the on-river M&I users could trigger the need to recover credits and exchange the recovered water with CAWCD to create water that could be diverted by the on-river M&I users to firm their supplies. In addition to the recovery required for the on-river users, the AWBA might be required to recover credits to meet its obligation for Indian firming. However absent shortages, the only recovery planned for this ten-year plan is for interstate purposes. Even though recovery for shortages is not anticipated for this ten-year plan, any additional recovery provisions should be put in place due to the lead time needed.

3. Water management objectives

The early activities of the AWBA were focused on achieving the goal of full utilization of Arizona's Colorado River allocation. With the exception of 2005, Arizona has been meeting this goal since 2002. Another primary objective of the AWBA was meeting the M&I firming goals. By the end of 2009 the AWBA anticipates having stored over 1.57 million acre-feet (MAF) of credits for that purpose. The ten-year plan again shows that meeting the goal set for firming Tucson AMA supplies is problematic.

4. Funding

AWBA General Fund Appropriation

The AWBA has not received a general fund appropriation that was not subject to restrictions since 2001. Consequently, the AWBA does not anticipate receiving general fund appropriations and did not include expenditure of these funds in this ten-year plan. However, the AWBA will continue to seek appropriations from the Legislature for future ten-year plans.

Groundwater Withdrawal Fees

In 2006, the statutes concerning the collection and utilization of credits accrued through the expenditure of groundwater withdrawal fees by the AWBA had been amended subject to the enforceability of the Arizona Water Settlements Act (Settlements Act) P.L. 108-451, which became effective December 14, 2007. Under A.R.S. §45-2457(B)(6), in addition to meeting the water management objectives of the AMAs in which the fees were collected, the AWBA may also utilize withdrawal fees to meet the M&I demands of CAP subcontractors and to implement the settlement of water rights claims by Indian communities in Arizona. A.R.S. §45-2491 (B)(2) further clarifies that groundwater withdrawal fees however, may only be used to accomplish Indian firming goals after the expenditure of any legislative appropriations. Furthermore, A.R.S. §45-611(C)(3) was amended to allow the AWBA to collect groundwater withdrawal fees beyond 2016 and to allow fees collected in the Pinal AMA to be utilized for meeting the AWBA Southside Replenishment obligation. This ten-year plan utilizes withdrawal fees beyond 2016 for the accrual of credits and for the purchase of CAP water for the purpose of establishing the Southside Replenishment Bank.

Ad valorem Tax

Pursuant to A.R.S. §48-3715.03(B), 4¢ *ad valorem* taxes levied and collected by CAWCD that are not deposited in the District fund, shall be deposited into subaccounts held by the AWBA; one for each of the three counties in which the taxes were collected. For the past several years, CAWCD has not deposited monies collected into these AWBA subaccounts. As a result, the AWBA expended all available funds that remained in its subaccounts. CAWCD has however assisted the AWBA by offsetting AWBA water delivery and storage costs using the 4¢ *ad valorem* tax held in its own accounts. This ten-year plan relies on the continuation of CAWCD offsetting the AWBA's costs. It is important to note that 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 this ten-year plan does not include collections of the *ad valorem* tax beyond 2016.

Appropriations for Indian Firming

In 2006, the AWBA received an appropriation of \$13.5 million from the Legislature to be utilized specifically for meeting the State's Indian firming obligations. Expenditure of these funds had been anticipated during this ten-year plan. However, in fiscal year (FY) 2009 the Legislature transferred \$12.4 million of these funds from the Arizona Water Banking Fund. The difference, including interest, had been expended in the Tucson AMA for the purpose of assisting the Federal government in meeting its portion of the firming obligation under Section 306 of the Settlements Act. This ten-year plan therefore relies on the expenditure of withdrawal fees for meeting Indian firming obligations.

Funding for Interstate Banking

The Second Amended Agreement requires Nevada to make ten annual payments of \$23 million beginning in 2009, which will be deposited to the Operating Account. It also includes a provision that allows the AWBA and the Southern Nevada Water Authority (SNWA) to revise the annual payment schedule to provide operational flexibility. Water supplies for interstate

storage are expected to be minimal during this ten-year plan. When interstate storage occurs, monies from the Operating Account were used for those deliveries.

Gifts, Grants, or Donations

Pursuant to the Arizona-Nevada Shortage-Sharing Agreement discussed under the Activities and Projects section of the Annual Report, Nevada will provide to the AWBA \$8 million in order to assist Arizona in offsetting impacts that may occur during the Interim Period; the period beginning on the date the Secretary issues a Record of Decision (ROD) and ending on December 31, 2025. The AWBA began utilizing a portion of these funds in 2008 for the purchase and storage of CAP water and will expend the remainder of these funds under this ten-year plan.

5. Modifications within CAP with regard to pricing and pool allocation

In May 2000, the CAWCD Board adopted a policy for marketing the non-Indian agriculture (NIA) pool of excess water. This policy established an NIA pool of 400,000 acre-feet from 2004-2016. The pool will decline to 300,000 acre-feet from 2017-2023 and to 225,000 acre-feet from 2024-2030.

In 2008, recognizing that increased demand for subcontract and higher priority CAP water reduced the need for the incentive priced recharge pool, CAWCD adopted a rate schedule for 2009/2010 that phased-out the incentive priced recharge rate by 2012. However, initial water orders for 2009 continued to exceed supply, which prompted CAWCD to develop a policy for distributing excess CAP water among its customers. In June 2009, CAWCD adopted a policy that established four separate pools in addition to the NIA pool discussed above, thereby accounting for all excess CAP water (see Appendix J). While the actual policy is limited to the next five years, this ten-year plan assumes the policy will continue for the entire ten-year period. The AWBA's water availability was determined by subtracting the CAGR's projected storage amounts for replenishment reserve purposes from the shared pool of 175,000 acre-feet identified in the policy. CAWCD also amended its rate schedule by eliminating the incentive priced recharge pool in 2010. The new rates have been incorporated in this ten-year plan.

6. Participation in Indian settlements

One objective of the AWBA is assisting with the settlement of water rights claims by Indian communities within Arizona. The State of Arizona has a 100-year firming obligation under the Settlements Act. In addition, pursuant to HB 2728 executed on April 18, 2005, the AWBA has statutorily mandated responsibilities for the Southside Replenishment obligation. The Indian Firming Study Commission (Study Commission), created by the Arizona Legislature to evaluate the potential alternatives for meeting these obligations, concluded that the AWBA, in cooperation with ADWR and CAWCD is the most appropriate entity to fulfill the State's firming obligations. HB 2835, which included the Study Commission's recommendations, was signed by Governor Napolitano on April 12, 2006.

This ten-year plan includes a component for meeting the State's Indian settlement firming obligation. Since future appropriations from the Legislature cannot be predicted, withdrawal fee credits from the Phoenix and Pinal AMAs could be used to meet this obligation while still maintaining credits for other water management purposes. This includes credits that were

previously accrued from water stored at the GRIIDD GSF. It should be noted that the AWBA will retain full rights to the credits developed at the GRIIDD GSF until such time the credits are dedicated specifically for meeting the State's Indian firming obligation.

This ten-year plan also includes a component for meeting the Southside Replenishment obligation of establishing the Southside Replenishment Bank totaling 15,000 acre-feet. The AWBA plans to deliver 1,000 acre-feet for this purpose in 2009 and has identified the remaining deliveries in the first four years of the ten-year plan. Withdrawal fees collected in the Pinal AMA are used to meet this obligation.

7. New recharge facilities and/or expanded capacities at existing facilities

The AWBA completed a revised inventory of existing storage facilities in the state as required by A.R.S. §45-2452, which was approved by the Authority on March 22, 2006. The revised inventory was utilized to develop this ten-year plan.

CAWCD was issued an underground storage facility permit from ADWR to operate the Superstition Mountains Recharge project located in the east Salt River Valley in January 2008. The proposed annual volume for the facility is 56,500 acre-feet. The AWBA expects to utilize capacity at this facility once constructed and has therefore included it in this ten-year plan.

8. Interstate banking

The ten-year plan includes an interstate water banking component for Nevada, but does not include California. This ten-year plan indicates that only 48%, or 604,205 acre-feet of credits of the 1,250,000 acre-feet of credits needed to meet the Nevada obligation, could be met by 2019.

Although this ten-year plan identifies storage for interstate purposes in the last three years of the plan, it is not certain that water will be available for this purpose because the amount of water available in the AWBA's pool, if any, could be less. In addition, the water identified for interstate storage could also be stored for intrastate purposes if there are agreements in place that utilize funds from one AMA to store water in another AMA that has storage capacity available, but no funding. This ten-year plan does not include expenditure of funds from different AMAs because there are currently no such arrangements. In contrast, it is also possible that additional water could become available for interstate banking due to unanticipated precipitation or decreased water orders by other CAP customers. These events cannot be foreseen however, and are therefore not included in this plan.

Given that little to no water is available for interstate banking, the AWBA Commission has directed staff to pursue opportunities with CAWCD to increase CAP supplies through the acquisition of additional Colorado River water for the purpose of meeting its contract obligation to Nevada. Any additional supplies that become available would be addressed as part of the AWBA's Annual Plan of Operation and succeeding ten-year plans.

Conclusion

The ten-year plan is intended to serve as a guide to assist the AWBA in the development of the Annual Plan. The AWBA is required to develop a Plan for activities to be undertaken the following calendar year. As part of the Annual Report, the ten-year plan is reviewed and updated annually. Therefore, it is possible that the ten-year plan may change significantly depending on the goals set by the AWBA. Several conclusions that could be reached given this ten-year plan are:

- 1) There might not be sufficient excess CAP water to meet the state's obligation to Nevada.
- 2) Available funding becomes a limiting factor in both Pinal and Pima County.
- 3) The amount of carryover funds in Maricopa County could become an issue in future years.
- 4) Absent future appropriations, withdrawal fees will become the principle source of funding for Indian firming.

Appendices

APPENDIX A
Colorado River Water Deliveries for Water Banking Purposes
for Calendar Year 2008 by Partner and Active Management Area

AMA	Partner	Quantity of Water (Acre-Feet)	
		Intrastate	Interstate
PHOENIX AMA	Agua Fria Recharge Project	2,313	0
	Hieroglyphic Mountains Recharge Project	1,264	0
	Tonopah Desert Recharge Project	38,465	0
	Queen Creek Irrigation District	6,397	0
	Gila River Indian Irrigation & Drainage District	31,326	0
	<i>Intrastate/Interstate AMA Subtotal</i>	<i>79,765</i>	<i>0</i>
	<i>Phoenix AMA Subtotal</i>	<i>79,765</i>	
PINAL AMA	Central Arizona Irrigation and Drainage District	37,852	0
	Hohokam Irrigation and Drainage District	18,525	0
	Maricopa-Stanfield Irrigation and Drainage District	41,864	0
	Gila River Indian Irrigation & Drainage District	5,000	0
	<i>Intrastate/Interstate AMA Subtotal</i>	<i>103,241</i>	<i>0</i>
	<i>Pinal AMA Subtotal</i>	<i>103,241</i>	
TUCSON AMA	Avra Valley Recharge Project	5,443	0
	Central Avra Valley Storage and Recovery Project	7,675	0
	Lower Santa Cruz Recharge Project	20,866	0
	Pima Mine Road Recharge Project	0	0
	<i>Intrastate/Interstate AMA Subtotal</i>	<i>33,984</i>	<i>0</i>
	<i>Tucson AMA Subtotal</i>	<i>33,984</i>	
TOTAL INTRASTATE & INTERSTATE DELIVERIES		216,990	0
TOTAL DELIVERIES		216,990	

APPENDIX B
CAP DELIVERY SCHEDULE
(Acre-feet)

Year	CAP Demands				Average Year Supply ⁴	Available for AWBA ⁵
	M&I ¹	Indian ²	Ag ³	Total		
2010	863,595	104,424	409,026	1,377,045	1,525,000	147,955
2011	844,350	127,308	409,026	1,380,684	1,525,000	144,316
2012	836,333	137,016	409,026	1,382,375	1,525,000	142,625
2013	829,829	146,724	409,026	1,385,579	1,525,000	139,421
2014	823,892	156,432	409,026	1,389,350	1,525,000	135,650
2015	818,133	166,002	409,026	1,393,161	1,525,000	131,839
2016	812,335	175,572	409,026	1,396,933	1,525,000	128,067
2017	904,143	185,143	309,026	1,398,312	1,525,000	126,688
2018	894,127	195,375	309,026	1,398,528	1,525,000	126,472
2019	888,053	205,143	309,026	1,402,222	1,525,000	122,778

- (1) Includes M&I, CAGR, CAGR replenishment reserve, and Indian M&I lease.
- (2) From CAWCD demand forecast.
- (3) Based on current agricultural pool policy, includes 32,537 AF for Harquahala Valley ID. Also includes subcontract water of 9,026 AF/YR.
- (4) Based on average year delivery of 1,600,000 AF/YR per year minus losses.
- (5) Assumes AWBA Pool of 175KAF less CAGR projected replenishment reserve uses.

APPENDIX C
STORAGE FACILITIES AVAILABLE TO THE AWBA
(as used in the Ten-Year Plan)

AMA and Facility Type ¹	Facility Permit Expiration	Facility Permitted Capacity (AF)	Capacity Available to AWBA ² (AF)	Year Water Last Stored	Volume of Water Last Stored (AF)
PHOENIX – GSF³					
Queen Creek ID	12/2010	28,000	10,000	2008	6,397
PHOENIX – USF					
Agua Fria Recharge Project	05/2019	100,000	10,000	2008	2,313
Hieroglyphic Mtns.	12/2021	35,000	18,000	2008	1,264
Tonopah Desert RP	09/2025	100,000 ⁴	35,000	2008	38,465
West Maricopa Combine - USF	05/2021	25,000	5,000	⁵	0
PINAL – GSF					
Central Arizona IDD	12/2017	110,000	60,000	2008	37,852
Hohokam IDD	10/2012	55,000	40,000	2008	18,525
Maricopa-Stanfield IDD	12/2009	120,000	60,000	2008	41,864
TUCSON – USF					
Avra Valley	03/2018	11,000	5,000	2008	5,443
CAVSARP	10/2025	100,000	22,000	2008	7,675
Lower Santa Cruz	09/2019	50,000	25,000	2008	20,866
Pima Mine Road	09/2020	30,000	10,000	2007	6
SAVSARP	01/2028	60,000	10,000	⁵	n/a
Other Facilities Currently or Anticipated to be Available to the AWBA					
Superstition Mtn.-USF	01/2028	56,500	18,000	⁶	n/a

Footnotes:

- (1) As additional facilities are developed, they will be included in future plans.
- (2) This does not reflect the actual “permitted” volume for these facilities; instead for the purposes of this plan, staff relied on average historical storage volumes and potential for future storage. For 2009-2013 capacity is not expected to be available to the AWBA at the Hohokam ID GSF due to storage by other partners.
- (3) The AWBA holds water storage permits at Chandler Heights Citrus ID (3 KAF), Salt River Project (100 KAF), Roosevelt Water Conservation District (100 KAF), New Magma ID (54 KAF), Tonopah ID (15 KAF), Harquahala ID (50KAF), and BKW Farms (16 KAF) GSFs. These were not considered significant uses in this ten-year outlook.
- (4) Facility is permitted for 150 KAF for the first 4 years (2010) and 87.5 KAF for the next 16 years; the 100 KAF listed is a weighted average.
- (5) No deliveries to date.
- (6) Water Storage Permit application to be submitted to ADWR upon construction of the facility.

APPENDIX D
Credits Developed for M&I Firming Utilizing the 4¢ Tax ¹
(Acre-feet)

	Year	Groundwater Savings			Underground Storage		
		Capacity Available ⁴	Capacity Used	Credits Earned	Capacity Available ⁴	Capacity Used	Credits Earned
		Pre-plan ³			528,894		
PHOENIX AMA²	2010	5,442	1,687	1,569	51,957	35,533	33,046
	2011	6,156	1,561	1,451	62,323	41,428	38,528
	2012	4,300	844	785	59,682	34,143	31,753
	2013	3,788	939	873	78,788	53,689	49,931
	2014	2,630	1,301	1,209	80,095	68,631	63,827
	2015	2,318	1,003	932	79,068	64,893	60,350
	2016	2,847	995	925	79,217	60,398	56,170
	2017	1,315	1,315	1,223	80,739	80,739	75,087
	2018	1,223	1,223	1,137	80,532	80,532	74,895
	2019	1,137	1,137	1,137	80,348	80,348	74,895
	Total			540,135			1,176,805
	PINAL AMA²	Pre-plan ³			159,595		
2010		113,112	12,646	11,761	-	-	-
2011		113,734	12,341	11,477	-	-	-
2012		105,454	13,335	12,402	-	-	-
2013		105,833	12,993	12,083	-	-	-
2014		150,181	13,168	12,246	-	-	-
2015		150,346	13,477	12,533	-	-	-
2016		150,508	13,795	12,830	-	-	-
2017		150,667	0	0	-	-	-
2018		150,749	0	0	-	-	-
2019		150,904	0	0	-	-	-
Total				244,927			
TUCSON AMA²		Pre-plan ³			3877		
	2010	0	0	0	60,885	60,885	56,623
	2011	0	0	0	61,010	61,010	56,740
	2012	0	0	0	50,914	46,486	43,232
	2013	0	0	0	50,654	26,128	24,299
	2014	0	0	0	61,230	26,487	24,633
	2015	0	0	0	61,282	27,282	25,372
	2016	0	0	0	61,734	28,101	26,134
	2017	0	0	0	61,385	0	0
	2018	0	0	0	61,435	0	0
	2019	0	0	0	61,484	0	0
	Total			3,877			518,058

Footnotes:

- (1) Development of M&I firming credits followed utilization of other funds in the Arizona Water Banking Fund.
- (2) M&I firming targets are Phoenix AMA - 1.566 MAF, Pinal AMA - 243 KAF, and Tucson AMA - 864 KAF.
- (3) Cumulative totals for 1997-2009; 2009 credits estimated based on projected deliveries.
- (4) The capacity available is based on the capacity remaining at the USFs and GSFs after all higher priority demands have been met.

APPENDIX E
Credits Developed for Meeting AMA Water Management Goals
Utilizing Withdrawal Fees ¹
(Acre-feet)

	Year	Groundwater Savings			Underground Storage		
		Capacity Available ³	Capacity Used	Credits Earned	Capacity Available ³	Capacity Used	Credits Earned
PHOENIX AMA	Pre-plan ²			143,276			118,087
	2010	15,000	9,558	8,889	65,600	13,643	12,688
	2011	15,000	8,844	8,225	68,200	5,877	5,466
	2012	10,000	5,562	5,173	68,200	8,518	7,922
	2013	10,000	6,078	5,652	86,200	7,412	6,893
	2014	10,000	7,370	6,854	86,200	6,105	5,678
	2015	8,000	5,682	5,284	86,200	7,132	6,632
	2016	8,485	5,638	5,243	86,200	6,983	6,494
	2017	8,768	7,453	6,931	86,200	5,461	5,079
	2018	8,154	6,931	6,446	86,200	5,668	5,271
	2019	7,583	6,446	5,995	86,200	5,852	5,271
	Total			207,968			185,481
	PINAL AMA	Pre-plan ²			357,931		
2010		124,000	9,888	9,196	-	-	-
2011		124,000	9,266	8,617	-	-	-
2012		114,316	2,862	2,661	-	-	-
2013		114,134	2,301	2,140	-	-	-
2014		160,000	9,819	9,132	-	-	-
2015		160,000	9,654	8,978	-	-	-
2016		160,000	9,492	8,827	-	-	-
2017		160,000	9,333	8,680	-	-	-
2018		160,000	9,251	8,603	-	-	-
2019		160,000	9,096	8,459	-	-	-
Total				433,224			0
TUCSON AMA		Pre-plan ²			4,483		
	2010	0	0	0	64,000	3,115	2,897
	2011	0	0	0	64,000	2,990	2,780
	2012	0	0	0	53,956	3,042	2,829
	2013	0	0	0	53,523	2,869	2,669
	2014	0	0	0	64,000	2,770	2,576
	2015	0	0	0	64,000	2,718	2,527
	2016	0	0	0	64,400	2,666	2,479
	2017	0	0	0	64,000	2,615	2,432
	2018	0	0	0	64,000	2,565	2,385
	2019	0	0	0	64,000	2,516	2,340
	Total			4,483			112,258

(1) Expenditure of withdrawal fees was given the highest priority.

(2) Cumulative totals for 1997-2009; 2009 credits estimated based on projected deliveries.

(3) The capacity available is based on the capacity remaining at the USFs and GSFs after all higher priority demands have been met.

APPENDIX F
Credits Developed Utilizing Annual General Fund Appropriations^{1,2}
 (Acre-feet)

	Year	Groundwater Savings			Underground Storage		
		Capacity Available	Capacity Used	Credits Earned	Capacity Available	Capacity Used	Credits Earned
PHOENIX AMA	Pre-plan ³			16,275			26,041
	2010	5,442	0	0	51,957	0	0
	2011	6,156	0	0	62,323	0	0
	2012	4,438	0	0	59,682	0	0
	2013	3,922	0	0	78,788	0	0
	2014	2,630	0	0	80,095	0	0
	2015	2,318	0	0	79,068	0	0
	2016	2,847	0	0	79,217	0	0
	2017	1,315	0	0	80,739	0	0
	2018	1,223	0	0	80,532	0	0
	2019	1,137	0	0	80,348	0	0
	Total				16,275		
PINAL AMA	Pre-plan ³			306,968			
	2010	124,000	0	0	-	-	-
	2011	124,000	0	0	-	-	-
	2012	124,000	0	0	-	-	-
	2013	124,000	0	0	-	-	-
	2014	160,000	0	0	-	-	-
	2015	160,000	0	0	-	-	-
	2016	160,000	0	0	-	-	-
	2017	160,000	0	0	-	-	-
	2018	160,000	0	0	-	-	-
	2019	160,000	0	0	-	-	-
	Total				306,968		
TUCSON AMA	Pre-plan ³			2,846			51,700
	2010	0	0	0	64,000	0	0
	2011	0	0	0	64,000	0	0
	2012	0	0	0	64,000	0	0
	2013	0	0	0	64,000	0	0
	2014	0	0	0	64,000	0	0
	2015	0	0	0	64,000	0	0
	2016	0	0	0	64,400	0	0
	2017	0	0	0	64,000	0	0
	2018	0	0	0	64,000	0	0
	2019	0	0	0	64,000	0	0
	Total				2,846		

Footnotes:

- (1) The ten-year plan does not include a component for General Fund appropriations.
- (2) The on-river M&I firming target is 420,000 AF.
- (3) Cumulative totals for 1997-2009.

APPENDIX G							
Credits Developed Utilizing Funds Dedicated for Shortage Reparations ¹							
(Acre-feet)							
PHOENIX AMA	Year	Groundwater Savings			Underground Storage		
		Capacity Available²	Capacity Used	Credits Earned	Capacity Available	Capacity Used	Credits Earned
	Pre-plan			4,590			16,051
	2010	5,442	0	0	51,957	0	0
	2011	6,156	0	0	62,323	0	0
	2012	4,438	137	128	59,682	1,967	1,829
	2013	3,922	134	125	78,788	535	498
	2014	2,630	0	0	80,095	0	0
	2015	2,318	0	0	79,068	0	0
	2016	2,847	0	0	79,217	0	0
	2017	1,315	0	0	80,739	0	0
	2018	1,223	0	0	80,532	0	0
	2019	1,137	0	0	80,348	0	0
Total			4,843			18,378	
PINAL AMA	Year	Groundwater Savings			Underground Storage		
		Capacity Available²	Capacity Used	Credits Earned	Capacity Available	Capacity Used	Credits Earned
	Pre-plan			55,751			
	2010	124,000	0	0	-	-	-
	2011	124,000	0	0	-	-	-
	2012	124,000	9,684	9,007	-	-	-
	2013	124,000	9,866	9,175	-	-	-
	2014	160,000	0	0	-	-	-
	2015	160,000	0	0	-	-	-
	2016	160,000	0	0	-	-	-
	2017	160,000	0	0	-	-	-
	2018	160,000	0	0	-	-	-
	2019	160,000	0	0	-	-	-
Total			73,933				
TUCSON AMA	Year	Groundwater Savings			Underground Storage		
		Capacity Available²	Capacity Used	Credits Earned	Capacity Available	Capacity Used	Credits Earned
	Pre-plan			0			0
	2010	0	0	0	64,000	0	0
	2011	0	0	0	64,000	0	0
	2012	0	0	0	64,000	10,044	9,341
	2013	0	0	0	64,000	10,477	9,743
	2014	0	0	0	64,000	0	0
	2015	0	0	0	64,000	0	0
	2016	0	0	0	64,400	0	0
	2017	0	0	0	64,000	0	0
	2018	0	0	0	64,000	0	0
	2019	0	0	0	64,000	0	0
Total			0			19,084	

Footnotes:

- (1) \$8 million received from Nevada pursuant to the Arizona-Nevada Shortage-Sharing Agreement to assist Arizona in offsetting the impacts of shortages during the Interim Period.
- (2) The capacity available is based on the capacity remaining at the USFs and GSFs after all higher priority demands have been met.

APPENDIX H
Credits Developed Utilizing Indian Settlement Appropriations ¹
 (Acre-feet)

	Year	Groundwater Savings			Underground Storage		
		Capacity Available	Capacity Used	Credits Earned	Capacity Available	Capacity Used	Credits Earned
PHOENIX AMA	Pre-plan			0			0
	2010	5,442	0	0	51,957	0	0
	2011	6,156	0	0	62,323	0	0
	2012	4,438	0	0	59,682	0	0
	2013	3,922	0	0	78,788	0	0
	2014	2,630	0	0	80,095	0	0
	2015	2,318	0	0	79,068	0	0
	2016	2,847	0	0	79,217	0	0
	2017	1,315	0	0	80,739	0	0
	2018	1,223	0	0	80,532	0	0
	2019	1,137	0	0	80,348	0	0
	Total			0			0
PINAL AMA	Pre-plan			0			
	2010	124,000	0	0	-	-	-
	2011	124,000	0	0	-	-	-
	2012	124,000	0	0	-	-	-
	2013	124,000	0	0	-	-	-
	2014	160,000	0	0	-	-	-
	2015	160,000	0	0	-	-	-
	2016	160,000	0	0	-	-	-
	2017	160,000	0	0	-	-	-
	2018	160,000	0	0	-	-	-
	2019	160,000	0	0	-	-	-
	Total			0			
TUCSON AMA	Pre-plan			0			28,246
	2010	0	0	0	64,000	0	0
	2011	0	0	0	64,000	0	0
	2012	0	0	0	64,000	0	0
	2013	0	0	0	64,000	0	0
	2014	0	0	0	64,000	0	0
	2015	0	0	0	64,000	0	0
	2016	0	0	0	64,400	0	0
	2017	0	0	0	64,000	0	0
	2018	0	0	0	64,000	0	0
	2019	0	0	0	64,000	0	0
	Total			0			28,246

Footnotes:

- (1) The State Indian firming target is estimated at 550,000 AF.
- (2) Credits accrued through the expenditure of \$3 million for assisting Federal government in meeting its firming obligation under Section 306 of the Arizona Water Settlements Act.

APPENDIX I
Potential Credits Developed for Interstate Water Banking¹
(Acre-feet)

Year	Available CAP Supplies²	Available AWBA Capacity³	Remaining Supply⁴	Interstate Credits⁵
Pre-plan ⁶				550,770
2010	0	120,645	0	0
2011	0	126,884	0	0
2012	0	125,542	0	0
2013	0	145,314	0	0
2014	0	184,550	0	0
2015	0	186,361	0	0
2016	0	191,018	0	0
2017	19,772	212,052	0	18,586
2018	20,302	212,184	0	19,084
2019	17,383	212,388	0	16,340
Total				604,785

Footnotes:

- (1) The AWBA has an obligation to have 1,250,000 acre-feet of credits for the SNWA.
- (2) Water available for Interstate Banking is calculated by subtracting the water delivered and stored by the AWBA for intrastate water banking from the total water supply available for the AWBA (see Appendix B).
- (3) Reflects the unused capacity available to the AWBA at USFs and GSFs in the Phoenix, Pinal, and Tucson AMAs. Additional capacity may be available at individual facilities based on the utilization by individual water storage permit holders.
- (4) Remaining supplies after subtracting the water delivered and stored by the AWBA for intrastate water banking and water delivered for interstate water banking.
- (5) Based on the Available Supplies or the Available AWBA Capacity, whichever is less, available funding and an annual limitation of 200,000 AF/YR.
- (6) Cumulative totals for 2002-2009; 2009 credits estimated based on projected deliveries.

APPENDIX J

**CAWCD PROCEDURE TO DISTRIBUTE
EXCESS WATER
IN 2010 THROUGH 2014
Adopted June 4, 2009**

Staff have worked with stakeholders to develop procedures that balance competing interests for the limited supply of Excess CAP water. The outcome of this "Access to Excess" process is a Staff Proposal that relies, where possible, on consensus among the stakeholders.

From the total available Excess supply, the Agricultural Settlement Pool is filled first, and is not subject to "Access to Excess" provisions. The Staff Proposal then creates four separate pools, in effect for a five year period (2010 through 2014). The pools are: AWBA & CAGRDR Replenishment Reserve; CAGRDR Annual Replenishment; Municipal; Industrial & Other.

The AWBA and CAGRDR Replenishment Reserve share a pool of a fixed volume of 175,000 acre-feet (AWBA/RR pool). Allocation within this pool is set as part of the existing annual AWBA-CAWCD coordination and public meetings. AWBA may use the water for any authorized purpose.

The pool established for the CAGRDR's annual replenishment is capped at 35,000 acre-feet. The remaining volume is split evenly between a Municipal pool and an Industrial & Other pool. Water not used by the AWBA or CAGRDR in either of their pools is split between the Municipal pool and the Industrial & Other pool.

The Municipal Pool is for public & private water providers. Access within the pool incorporates two different approaches: historic use, and equal shares. Historic use is based on each provider's maximum use (Incentive plus Full Cost Excess) between 2005 and 2009. In the first year (2010), historic use is the primary allocation mechanism (90%), with a small volume (10%) apportioned equally. By the fifth year (2014), the two approaches have equal weighting.

The Industrial & Other pool is open to all other users, but is broken into two tiers—Industrial Tier (direct use or users storing water for a specific project) and Remarketer Tier (users storing water for future credit resale). All of the orders for the Industrial Tier users will be filled before allocating and filling orders for the Remarketer Tier. Access within the pool is based on a three year rolling average of actual water deliveries for each entity. Small users (orders less than 1,000 acre feet/year) will receive their full order as long as that order is not greater than in the previous three years.

“Access to Excess”

**Procedures for Distributing
Excess CAP Water, 2010 to 2014**

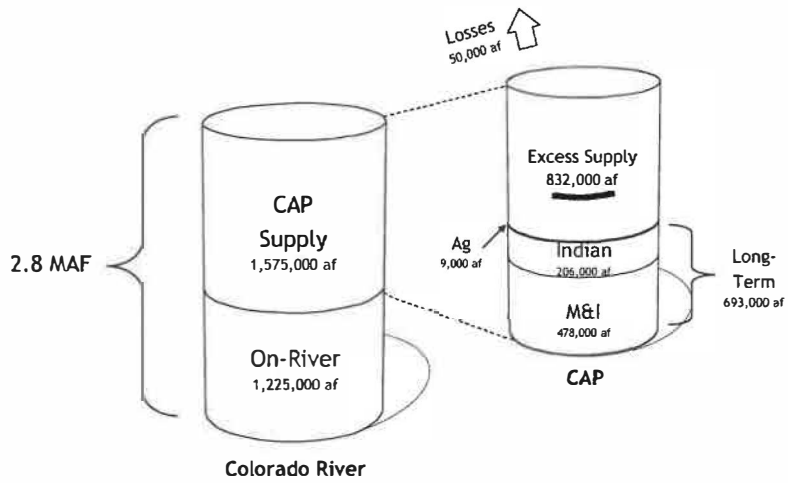
**AWBA Quarterly Meeting
June 17, 2009**

Context

- Supply of excess CAP water is diminishing
- Demand for excess is increasing
- Reductions imposed on 2009 orders
- CAWCD Board directed staff to work with stakeholders to develop policy for future orders

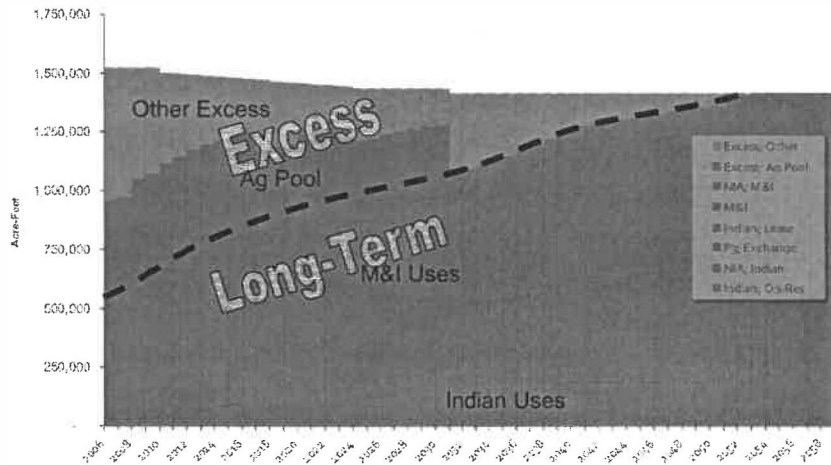
AWBA Quarterly Meeting, June 17, 2009

2009 CAP Supply



AWBA Quarterly Meeting, June 17, 2009

CAP Supply Utilization



AWBA Quarterly Meeting, June 17, 2009

A₂E Process

Objectives

- Policy guidance that could be turned into a program to manage orders
- Consensus among stakeholders

Potential Benefits

- Greater predictability for customers and staff
- Less annual conflict and jockeying among customers
- A more deliberate set of policy outcomes

AWBA Quarterly Meeting, June 17, 2009

A₂E Process

Input

- Four stakeholder workshops
- Three presentations to the CAWCD Board
- Extensive public comment

Outcome

- Staff developed a proposal that incorporated consensus where possible
- CAWCD Board approved Access to Excess procedures on June 4th

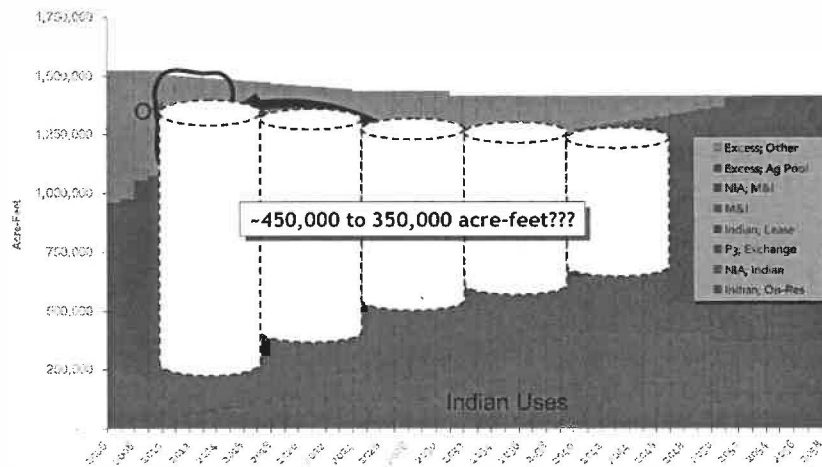
AWBA Quarterly Meeting, June 17, 2009

A₂E Supply



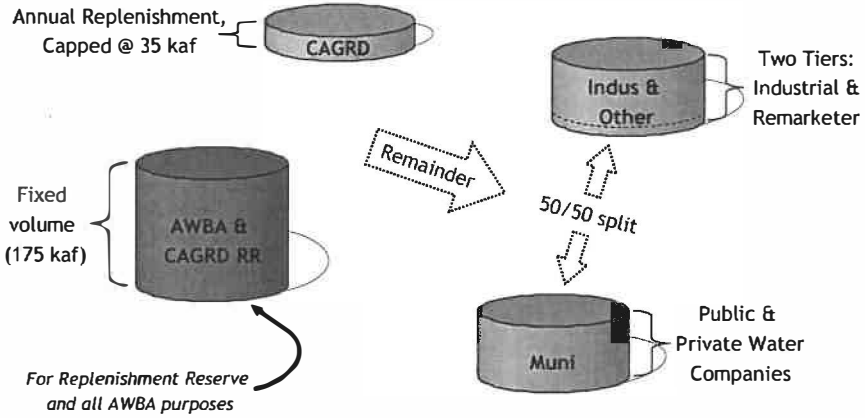
AWBA Quarterly Meeting, June 17, 2009

A₂E Supply



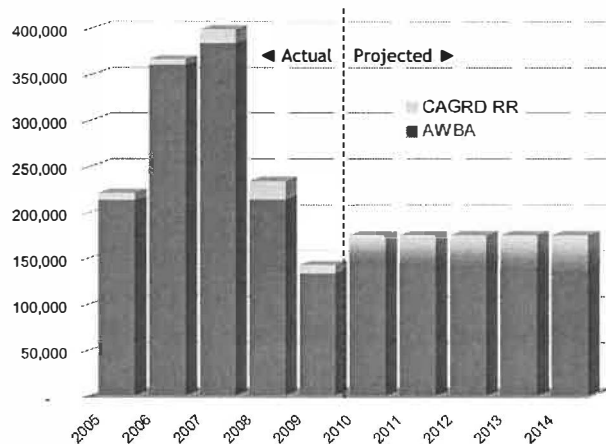
AWBA Quarterly Meeting, June 17, 2009

A₂E Pools



AWBA Quarterly Meeting, June 17, 2009

AWBA & CAGR RR Pool



AWBA Quarterly Meeting, June 17, 2009



CAP

Send comments & questions to
Ken Seasholes (kseasholes@cap-az.com)

Arizona Water Banking Authority

POLICY GUIDANCE STATEMENT #1

Purpose: The purpose of this Policy Guidance Statement is to identify who can act as the Authorized Representative for the Arizona Water Banking Authority (AWBA) Commission for the purpose of modifying a contract or agreement entered into by the AWBA when the contract or agreement provides that it can be modified by an Authorized Representative of the AWBA. The Policy Guidance Statement also sets forth requirements for the Authorized Representative to consult with the AWBA Commission before agreeing to make any such modifications.

Background: The AWBA is authorized to make and enter into contracts or agreements necessary for it to carry out the purposes, powers and duties identified in its authorizing statutes, including interstate water banking agreements pursuant to A.R.S. § 45-2471. In order to efficiently manage a contract or agreement, the AWBA may find it reasonable to specifically include a provision in the contract or agreement allowing an Authorized Representative of the AWBA to make modifications to the contract and agreement based on guidance from the Commission (for example, modifications to payment schedules, ICUA schedules, and noticing requirements). The AWBA currently has one such agreement, the Second Amended Agreement for Interstate Water Banking with the State of Nevada.

Policy Guidance:

1. The Commission shall agree on which contracts or agreements shall include a provision allowing an Authorized Representative of the Commission to make modifications to the contract or agreement.
2. The Chairman of the Commission shall be the Authorized Representative for the Commission. If the Chairman cannot act as Authorized Representative for the Commission due to a conflict of interest or other circumstances, the Chairman shall nominate an alternate Authorized Representative who shall be a member of the Commission. The alternate Authorized Representative shall be approved by the majority vote of the Commission.
3. The Commission shall provide specific direction to the Authorized Representative on how to perform his or her duties under the contract or agreement.
4. Before agreeing to modify or amend any contract or agreement, the Authorized Representative shall consult with the Commission members. If the modifications or amendments proposed are determined by a member of the Commission to be outside the original direction provided the Authorized Representative, the modifications or amendments shall be presented to the Commission for formal action.

THIRD 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.

- 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. The terms established by this Subarticle may be changed upon written agreement of AWBA's authorized representative and the SNWA's General Manager.

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

3.2.4 The terms established by this Article may be changed upon written agreement of AWBA's authorized representative and the SNWA's General Manager.

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. The terms established by this Subarticle may be changed upon written agreement of AWBA's authorized representative and the SNWA's General Manager.
- 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 Payment of federal charges relating to the Execution of a Storage and Interstate Release Agreement.
- 5.2.1 SNWA agrees that all federal charges associated with any amendment to the SIRA shall be borne by SNWA.
- 5.2.2 These charges shall be calculated by and paid directly to the Secretary by SNWA in accordance with the Secretary's requirements.

5.3 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.

5.4 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.

5.5 Notices, Requests and Payments

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

5.5.1.1 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

- 5.5.1.2 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.
- 5.5.2 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.
- 5.6 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.
- 5.7 The parties to this Agreement are hereby notified of Arizona Revised Statutes section 38-511.
- 5.8 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.
- 5.9 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.

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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