

ARIZONA WATER BANKING AUTHORITY
Wednesday, March 30, 2011

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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 March 30, 2011 at 10:00 a.m. at the Arizona Department of Water Resources, 3550 North Central Avenue, Phoenix, Arizona 85012, Upper/Middle Verde conference room on the 2nd floor. The meeting is open to the general public. A copy of the agenda for the meeting is posted below.

Dated this 29th day of March, 2011

FINAL AGENDA

Arizona Water Banking Authority Commission Meeting

- I. Welcome/Opening Remarks
 - Resolution honoring Kim Mitchell
 - Resolution honoring Herbert R. Guenther
 - Resolution honoring Larry Dozier
- II. Election of Commission Officers
- III. Approval of Minutes
 - December 8, 2010 Meeting
 - January 11, 2011 Work-Study Session
 - January 11, 2011 Special Meeting
- IV. Water Banking Staff Activities
 - Deliveries
 - Water Storage Permit Applications
 - Meetings
 - Update on legislative activities
 - Legislative transfers
 - Proposed Legislation affecting AWBA
 - On-going Indian settlement negotiations
 - Update on CAWCD v. Brewer

Arizona Water Banking Authority meeting

- V. Storage Facility Inventory Update
 - Discussion
 - Potential approval of Storage Facility Inventory
- VI. Scope of AWBA Supply and Demand Study
- VII. Initial Discussion of Potential Policy for Transfer of Long-term Storage Credits During Declared Shortages
- VIII. Discussion of Concepts for Firming Indian CAP Contracts and Municipal and Industrial CAP Subcontracts
- IX. Call to the Public

Future Meeting Dates:

Wednesday, June 15, 2011

Wednesday, September 21, 2011

Wednesday, December 7, 2011

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.

Free parking will be available in ADWR Employee parking lot. The entrance faces 2nd Avenue and is a few feet south of Columbus.

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.

RESOLUTION

Of the

ARIZONA WATER BANKING AUTHORITY

In Appreciation of the Contributions of

Larry R. Dozier

WHEREAS, the Arizona Water Banking Authority is of critical importance to all users of Arizona's Colorado River water; and,

WHEREAS, the Arizona Water Banking Authority continues to play a pivotal role in assisting the State of Arizona in maximizing the use of its Colorado River entitlement; and,

WHEREAS, for the Arizona Water Banking Authority to successfully meet its statutorily mandated requirements, it must work efficiently, effectively and cooperatively with the Central Arizona Water Conservation District Board; and,

WHEREAS, Central Arizona Water Conservation District subcontractors realize significant benefits from the long-term storage credits developed by the Arizona Water Banking Authority, and,

WHEREAS, Larry R. Dozier has served the Central Arizona Water Conservation District Board in various capacities since 1985, most recently as Deputy General Manager since 1995; and,

WHEREAS, Larry Dozier was committed to the success of the Water Banking by building consensus, trust, communications and cooperation among the Authority, the Board, their staffs, subcontractors and other interested parties; and,

WHEREAS, Larry Dozier always performed his duties with a commitment to the best interests of the people of Arizona, the Central Arizona Water Conservation District Board and with deep respect for the integrity and abilities of Arizona Water Banking Authority Commissioners, its staff, and other interested parties with whom he was associated in the affairs of the Authority:

NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Arizona Water Banking Authority acknowledge the exceptional service rendered by Larry Dozier to the Arizona Water Banking Authority and the people of the State of Arizona in contributing to the continuing success of the Arizona Water Banking Authority and does express its gratitude and appreciation to Larry for his service to the Central Arizona Water Conservation District

and the Arizona Water Banking Authority in helping them insure that the people of Arizona receive sufficient supplies of quality water in the future and does wish him, his wife and family the best of health, happiness and prosperity in all future endeavors;

BE IT FURTHER RESOLVED that the Chairman of the Arizona Water Banking Authority is hereby directed to send this Resolution to Mr. and Mrs. Larry Dozier and their family and to the President of the Central Arizona Water Conservation District Board.

APPROVED, by unanimous action of the Arizona Water Banking Authority this 30th day of March, 2011.

Sandy Fabritz-Whitney, Chairman

Maureen R. George, Vice-Chairman

Tom Buschatzke, Secretary

John Mawhinney, Commissioner

Lisa A. Atkins, Commissioner

Virginia O'Connell, Manager

RESOLUTION

Of the

ARIZONA WATER BANKING AUTHORITY

In Appreciation of the Contributions of
Herbert R. “Herb” Guenther

WHEREAS, the Arizona Water Banking Authority is of critical importance to all users of Arizona’s Colorado River water; and,

WHEREAS, the Arizona Water Banking Authority continues to play a pivotal role in assisting the State of Arizona in maximizing the use of its Colorado River entitlement; and,

WHEREAS, the Arizona Water Banking Authority is engaged in activities that allow the Authority to meet the State of Arizona’s obligations under Indian water rights settlements and interstate water banking agreements; and,

WHEREAS, the success of the Arizona Water Banking Authority is due in part to the dedication and diligence of all of the Authority’s past and present commission members; and,

WHEREAS, Herb Guenther served as Chairman of the Arizona Water Banking Authority from January 2003, until January 2011; and,

WHEREAS, as Chairman Guenther always performed duties with a commitment to the best interests of the people of Arizona and with deep respect for the integrity and abilities of his fellow commission members, its staff, and other interested parties with whom he was associated in the affairs of the Authority:

NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Arizona Water Banking Authority acknowledge the service rendered by Herb Guenther to the Arizona Water Banking Authority and the people of the State of Arizona in contributing to the continuing success of the Arizona Water Banking Authority and meeting the water management goals of the State of Arizona, and does express its gratitude and appreciation to Herb for his untiring service, wise counsel and practical approach when solving the issues that confronted the Commission and does wish him and his wife the best of health, happiness and prosperity in all future endeavors;

BE IT FURTHER RESOLVED that the Chairman of the Arizona Water Banking Authority is hereby directed to send this Resolution to Mr. and Mrs. Herb Guenther.

APPROVED, by unanimous action of the Arizona Water Banking Authority this 30th day of March, 2011.

Sandy Fabritz-Whitney, Chairman

Maureen R. George, Vice-Chairman

Tom Buschatzke, Secretary

John Mawhinney, Commissioner

Lisa A. Atkins, Commissioner

Virginia O'Connell, Manager

RESOLUTION

Of the

ARIZONA WATER BANKING AUTHORITY

In Appreciation of the Contributions of

Kim R. Mitchell

WHEREAS, the Arizona Water Banking Authority is of critical importance to all users of Arizona's Colorado River water; and,

WHEREAS, the Arizona Water Banking Authority continues to play a pivotal role in assisting the State of Arizona in maximizing the use of its Colorado River entitlement; and,

WHEREAS, the Arizona Water Banking Authority is engaged in activities that allow the Authority to meet the State of Arizona's obligations under Indian water rights settlements and interstate water banking agreements; and,

WHEREAS, the success of the Arizona Water Banking Authority is due in part to the dedication and diligence of all of the Authority's past and present commission members and staff; and,

WHEREAS, Kim Mitchell served the Arizona Water Banking Authority as Technical Administrator from November 2005, and as Manager from December 2007, until her retirement in February 2011, coordinating its activities and staff, negotiating intrastate and interstate agreements, and performing her duties with a deep respect for the integrity and abilities of the Commission members, staff and other interested parties with whom she was associated in the affairs of the Authority:

NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Arizona Water Banking Authority acknowledge the service rendered by Kim Mitchell to the Arizona Water Banking Authority and the people of the State of Arizona in contributing to the success of the Arizona Water Banking Authority while she fostered intrastate and interstate cooperation in the Water Banking Authorities accomplishments and does express its gratitude and appreciation to Kim for her service, and practical approach to solving the issues that confronted the Commission and does wish her and her family the best of health, happiness and prosperity in all future endeavors;

BE IT FURTHER RESOLVED that the Chairman of the Arizona Water Banking Authority is hereby directed to send this Resolution to Kim, her husband and family.

APPROVED, by unanimous action of the Arizona Water Banking Authority this 30th day of March 2011.

Sandy Fabritz-Whitney, Chairman

Maureen R. George, Vice-Chairman

Tom Buschatzke, Secretary

John Mawhinney, Commissioner

Lisa A. Atkins, Commissioner

Virginia O'Connell, Manager

ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹

December 8, 2010
Arizona Department of Water Resources



AUTHORITY MEMBERS
Sandra Fabritz-Whitney, 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 Steve Pierce and Representative Kirk Adams.

Chairman Guenther announced that Kim Mitchell will be retiring on February 2, 2011. Virginia O'Connell has been appointed the new manager upon Ms. Mitchell's retirement. Gerry Wildeman will become the technical administrator.

Approval of Minutes of September 15, 2010

The Authority approved the minutes of the September 15, 2010 meeting.

Staff Activities

Ms. O'Connell reviewed water deliveries for 2010. By the end of the year, the AWBA will have delivered for storage an estimated 214,000 acre-feet of CAP water, which includes 19,000 acre-feet for interstate purposes. She updated the Commission on Central Arizona Water Conservation District's (CAWCD) recovery schedule for developing Intentionally Created Unused Apportionment (ICUA) for the Metropolitan Water District of Southern California (Metropolitan). CAWCD has completed its recovery of the remaining 8,159 acre-feet of long-term storage credits (credits) thereby meeting its obligation to Metropolitan. The AWBA will certify the development of an equivalent amount of ICUA next year subject to review by the Arizona Department of Water Resources (ADWR).

Ms. O'Connell informed Commission members that staff had submitted three water storage permit renewal applications to ADWR: the Queen Creek Irrigation District Groundwater Savings Facility (GSF) in the Phoenix Active Management Area (AMA) and the Central Arizona and Maricopa-Stanfield Irrigation District GSFs in the Pinal AMA. The renewals were necessary because the AWBA is planning to store at these facilities in 2011 and the current permits expire on the 31st of this year. Under ADWR's new fee schedule, the initial cost for each application is \$2,000. Because the fees are now based on an hourly billable rate, a portion of the fees could be reimbursed depending on the review time needed. Tom Buschatzke pointed out that the initial fee could also be exceeded, up to \$65,000, and requested that staff inform the Commission members of the final costs.

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.

Ms. Mitchell provided an update on water supply study activities and informed Commission members that Tom Carr has been contracted to assist the AWBA with these efforts. She proposed a workshop early January to be preceded by an Executive Session to discuss the attorneys' opinions on the AWBA's legal authorities related to meeting Indian firming and interstate obligations. Potential dates for the workshop are January 11th and 12th.

Ms. Mitchell briefed Commission members on the status of Exhibit C to the Amended Agreement to Firm Future Supplies, which recognized the intent of adding Mohave Valley Irrigation and Drainage District (MVIDD) to the agreement and adding newly acquired fourth priority Colorado River water along with an increased firming obligation for Bullhead City and Lake Havasu City. The entities identified in Exhibit C were given until December 15th 2010 to provide written notice of their intent to participate in the amended agreement. Of the entities identified, only MVIDD chose not to participate at this time. John Mawhinney inquired what the effect was of amending the agreement and if others could participate at a later date. Tim Henley clarified that under the agreement, credits accrued from general fund monies are set aside for participating entities, thereby providing certainty that the credits will be available for their use during times of shortage. As new entities participate in the agreement, the amount of credits set aside for existing participants will remain the same, while the amount set aside for the new participants will be distributed proportionally from general fund credits still available. The amounts could change however if additional water is acquired and added to the firming amount.

An update was provided on Indian settlements. Chairman Guenther noted that President Obama would be signing the White Mountain Apache Tribe Water Rights Settlement this day. Under this settlement the AWBA is required to firm 3,750 acre-feet per year of non-Indian agricultural CAP water. This obligation is part of the 8,724 acre-feet per year of firming identified for future settlements under the Arizona Water Rights Settlement Act. The effective date of the settlement could be in 2-3 years depending on when the conditions of the settlement are met. The deadline for meeting the enforceability date is April 30, 2021. With regard to the Northern Arizona Water Rights Settlement, Fred Breedlove informed Commission members that the Navajo Nation and Hopi Tribe had signed off on the settlement last month. Other parties, including the state and cities, still needed to do so. Chairman Guenther noted that Governor Brewer would be considering the availability of funding for the settlement, which could cost \$50 million, before signing. Mr. Mawhinney commented that if the State provided funding for the settlement, the AWBA would need assurance that it is not swept in the future. Mr. Buschatzke inquired what funds the AWBA currently had for this purpose. Ms. O'Connell responded that withdrawal fees were the only funds available at this time. Mr. Bushatzke pointed out that if withdrawal fees are swept, the AWBA would only be able to use existing withdrawal fee credits, which would then not be available for other purposes. Mr. Mawhinney asked if the AWBA could opt out as the State's agent, unless funds were provided. Chairman Guenther noted the Legislature could be informed of the importance of the issue.

Larry Dozier (CAWCD) provided an update on the Colorado River Annual Operating Plan for 2011, noting that it had not yet been adopted. The draft plan proposes river operations under normal water year conditions. Releases from Lake Powell are

projected to be 9 million acre-feet (MAF), however, there is a 49 percent chance that conditions could trigger operations under the equalization tier, causing the release of up to 11 MAF. There is a 9-10 percent chance of shortages in 2012 and a 20 percent chance in 2013. Much will depend on winter snowpack conditions in April.

Mr. Dozier clarified that the balancing trigger for Lake Mead is at an elevation of 1,082 feet. The first level of shortage occurs at an elevation of 1,075 feet. The 2011 forecast of 9 MAF is based on an elevation of 1077.5 feet, which is only 2.5 feet above the shortage elevation. One foot of elevation is the equivalent of approximately 80,000 acre-feet. This means there could be less than 200,000 acre-feet remaining before a shortage is triggered. There are several factors however that could mitigate decreases in lake elevation, such as the operation of the Warren H. Brock reservoir and the development of intentionally created surplus (ICS) by California and Nevada. There are also ongoing negotiations with Mexico regarding the storage of a portion its water in L. Mead that cannot be delivered because of earthquake damage to their infrastructure.

Chairman Guenther noted that if the elevation reaches 1,075 feet at L. Mead, it would be the first shortage ever declared. This would not go unnoticed by Wall Street and the media. At the 1,050 foot elevation, the powerhead would be lost, which would draw the attention of the bond market given the recent article in the New York Times on the impact of water shortages on a municipality's credit rating. Mr. Dozier noted that CAWCD was making an effort to inform the public that the water supply in the Phoenix area is strong and that this level of shortage would not disrupt third level M&I and Indian contract deliveries. Mr. Buschatzke commented that this should bolster the value of the AWBA. Having an approved recovery plan and implementation mechanisms in place will also show that CAP M&I subcontractors are well prepared for future shortages. Mr. Mawhinney inquired on the status of the recovery plan. Mr. Dozier responded that staff was working closely with stakeholders to determine what would work best with their systems. He noted the importance of having a plan in place, but pointed out that it would not be cost effective to have the recovery facilities in place until needed. It would be more efficient to wait until three years before M&I shortages are anticipated because of the costs associated with maintaining the facilities. Lisa Atkins noted that an update on recovery planning would be provided next spring. Mr. Henley noted that shortages for On-River M&I users could be as early as 2012. Mr. Dozier commented that CAWCD had agreements with the Mohave County Water Authority for recovery during shortages.

Mr. Dozier provided an update on CAWCD v. Brewer, which challenges the transfer of AWBA interstate funds by the State. Both parties have filed motions for summary judgement. The Superior Court judge elected not to hear oral arguments, which were scheduled for November 19th. A decision on whether to grant judgement or require a trial will be issued mid-January. Minutes of the AWBA meetings have been introduced as new information. The judge has consented to a request by the Attorney General's Office to respond to the new documents.

Tom McCann gave a presentation on the CAWCD Staff ADD Water Program Proposal (PowerPoint available on website). He noted the proposal incorporates the basic principles of the Summary of Emerging Consensus (SEC) that resulted from a three-year stakeholder process. The proposal outlines a phased approach for acquiring

water supplies, an auction process for allocating the water supplies among participating entities, and mechanisms for financing the program, including pre-launch and water acquisition costs. Mr. McCann also discussed opportunities for the Central Arizona Groundwater Replenishment District (CAGR) and the Just Water Program within the proposed ADD Water Program.

Maureen George inquired if there was a role for the AWBA within ADD Water for obtaining additional water for firming. Mr. McCann responded that the AWBA should not be eligible to hold a long-term contract for ADD Water. However, it was anticipated that the AWBA could be a customer of "spot-market" water. Ms. George asked if the ADD Water Program would accelerate the reduction of excess CAP water. Mr. McCann commented that in the long-term, the amount of excess CAP water that is available because of unused entitlements could be reduced through the purchase of third priority rights; however it would not reduce the amount that is available under the 1.415 MAF. Mr. Buschatzke suggested that AWBA staff participate in the ADD Water stakeholder process. Mr. McCann noted that staff was welcome to participate in the Hammer it Out Group-2 meetings, which were scheduled to begin in mid-January.

Chairman Guenther noted that the auction process could result in water that is only available to the wealthiest. In addition, ADWR would be relinquishing its fiduciary responsibility to oversee third party impacts associated with Colorado River water right transfers. Mr. McCann responded that ADWR would still need to approve the transfer of a water right to CAWCD. Third party users could be identified at that point. Chairman Guenther pointed out that if uses by a third party change, they would not be required to notify ADWR. Mr. McCann noted that all uses would likely be for M&I purposes.

Second Amended Agreement for Interstate Banking

Ms. Mitchell briefed Commission members on the fourth quarter interstate accounting table for 2010. The table includes interstate storage approved under the Amended 2010 Plan. The cost of this storage is just over \$4 million and will be paid from Nevada Operating funds that had become available as a result of the 2009 reconciliation of interstate costs. Estimated cumulative credits by the end of 2010 will be over 600,000 acre-feet, which represents 48% of the AWBA's obligation to Nevada.

John Entsminger, Assistant General Manager of the Southern Nevada Water Authority (SNWA), gave a presentation on SNWA's Water Resource Plan, which is used to determine how current and future resources will be used to meet projected demand, including when shortages are declared on the Colorado River (available on website). He described how the plan, which is reviewed annually, has evolved since 2004. In 2005, SNWA amended its interstate water banking agreement with Arizona to guarantee the accrual of 1.25 MAF of credits. It was considered that these credits would be used as a bridge until other resources could be acquired. At that time it was anticipated that SNWA would begin requesting the recovery of the credits by 2016. However, because of a reduction in demand from conservation efforts, the acquisition of additional resources, and the adoption of the Colorado River Interim Guidelines in 2007, SNWA does not anticipate needing the credits until after 2018.

Mr. Entsminger pointed out that small changes in L. Mead storage could make critical differences to SNWA operations. Lake levels in L. Mead have declined drastically in the last decade due to severe drought affecting the Colorado River Basin. The Bureau of Reclamation (Reclamation) estimates that the first level of shortage (elev. 1,075 ft) could occur as early as 2012. The elevation on January 1, 2011 was 1,086 feet. The second level of shortage (elev. 1,050 ft.) could occur by 2013, impacting SNWA's first intake. SNWA's second intake is located at the 1,000 foot elevation and a third intake is currently being installed. However, if drought conditions persist, these intakes could also be impacted. Mr. Entsminger noted that the Lower Basin States have been working cooperatively on managing Colorado River water supplies and have written letters to Reclamation recommending that unused water in L. Mead be retained this year as a means to delay shortages. Given the current hydrologic conditions and risk of shortage to Nevada and Arizona, SNWA is also recommending deferring additional interstate water banking in Arizona through 2014. Mr. Buschatzke inquired if some water in L. Mead would be available to SNWA during shortages. Mr. Entsminger responded that SNWA could meet its demand for the next several years without taking its ICS stored in L. Mead. If converted to Extraordinary Conservation ICS, it would not be available during shortages. SNWA considers this to be an acceptable risk. Chairman Guenther asked Mr. Entsminger what the status was on the installation of the third intake. He responded that they had experienced delays with fault line fracture flows, which had filled the assembly chamber with materials. A cement retaining wall has been built and construction is moving forward. Estimated completion is in 2014.

Ms. Mitchell informed Commission members that in response to SNWA's concerns, staff drafted a letter agreement that outlines operational adjustments to the Second Amended Interstate Banking Agreement. The letter recognizes the likelihood that the elevation in L. Mead will continue to decline and that there is a strong probability that Arizona and Nevada's water supplies will be reduced. Given the current hydrologic conditions and SNWA's financial need for completing the third intake, the letter agreement proposes that the AWBA forego storing additional water for SNWA through 2014 and that SNWA forego requests for the development of ICUA during this period so that the amount of water delivered from L. Mead can be reduced. SNWA's obligation to make ten payments of \$23 million each year would resume in 2015 and end in 2024, unless another arrangement is agreed to between parties. Ms. Atkins asked if the letter agreement provided flexibility so that the AWBA could return to the provisions of the current agreement if hydrologic conditions reversed. Ms. Mitchell responded that the parties could enter into another letter agreement. Ms. George pointed out that the delay in interstate storage could affect the AWBA's ability to meet its obligation to Nevada since it is likely there will be less water available to the AWBA in the future. Ms. Mitchell noted that this concern had been raised in the discussions with CAP and SNWA. She added that potential water supplies for Indian firming and interstate would be discussed at the AWBA workshop in January. Mr. Buschatzke inquired if ADWR, as the State's representative, would be sending a letter to Reclamation similar to the letters sent by Metropolitan and CAWCD. Chairman Guenther noted that the recommendations for retaining unused water in L. Mead had been made by districts and were not at the state level; therefore ADWR would not be sending a letter at this time.

Ms. Atkins made a motion to approve the Letter Agreement that allows operational adjustments and modifications to the payment schedule. Mr. Buschatzke provided the second to that motion. The motion carried.

Discussion and Approval of 2011 Annual Plan of Operation

Ms. O'Connell noted the draft 2011 Plan of Operation (Plan) had been presented to the public at the Phoenix, Pinal, and Tucson AMA GUAC meetings and was also posted on the AWBA web page for additional public comment. Comments received from the public were incorporated into the Plan where appropriate. She provided a brief overview of 2010 activities before reviewing the 2011 Plan. The delivery schedule, Table 2, identifies 136,441 acre-feet of storage within the three AMAs and an additional 1,000 acre-feet of direct deliveries to the Southside Replenishment Bank. There are no interstate deliveries planned for 2011. Ms. O'Connell pointed out that because the AWBA Commission approved the letter agreement with SNWA, staff will replace the narrative under the interstate section on page 11 and footnote #4 to Table 5 with language that reflects terms of letter agreement, which had been provided to Commission members in the event the agreement was approved.

Mr. Mawhinney made a motion to adopt the 2011 Plan as presented with minor editorial changes. Ms. Atkins provided the second to that motion. The motion carried.

Mr. Mawhinney amended his motion to adopt the 2011 Plan to include interstate language that was added pursuant to the Letter Agreement with SNWA. Ms. Atkins provided the second to that motion. The motion carried.

Discussion and Approval of CY 2011 Water Delivery Budget

Ms. O'Connell reviewed the Water Delivery Budget for Calendar Year 2011 noting that it reflects the estimated revenues and planned expenditures identified in the AWBA's 2011 Plan. The total cost of the Plan is \$19.3 million. Of this amount, \$3.2 million will be expended from withdrawal fee revenues held by the AWBA, and \$16.1 million will be offset by CAWCD using the *ad valorem* tax. All estimated withdrawal fee revenues are expended. The 2010 Plan does not include deliveries for interstate purposes.

Mr. Buschatzke made a motion to adopt the AWBA Water Delivery Budget for Calendar Year 2011. Mr. Mawhinney provided the second to that motion. The motion carried.

Discussion and Potential Approval of the Agreement between the AWBA and Metropolitan Domestic Water Improvement District (MDWID) Providing for the Storage of Central Arizona Project Water at the Avra Valley Recharge Project

Mr. Henley noted that provisions for the recovery of credits accrued at the Avra Valley Recharge Project (AVRP) have been incorporated into the draft agreement since it was last discussed at the quarterly meeting in September. These provisions are similar to the AWBA's other water storage agreements in that the AWBA's recovery agent would not be denied access to AVRP's land for the purpose of recovering AWBA credits accrued at the facility. Unlike other storage facilities however, the AVRP is located on land owned by the state. Therefore, the AZ State Land Department (ASLD) would have a role in the recovery well permitting process. This has also been the case under CAWCD's ownership of the facility. CAWCD is moving forward with Recovery Planning for the area. Ms. George inquired if the ASLD could prevent the credits from being

recovered. Mr. Henley responded that they could not prevent recovery, but they could charge fees. He pointed out that the credits did not need to be recovered from within the AOI, but could be recovered from the same general area. Chairman Guenther noted ASLD has no claim to the water under the land it is leasing to MDWID. Mr. Henley commented that MDWID will have the same recovery issues. Ms. George had concerns regarding future recovery, noting that the issue did not exist at other facilities.

John Mawhinney made a motion to authorize Chairman Guenther to sign the agreement following approval by the MDWID Board of Directors as submitted with minor or editorial changes. Ms. Atkins provided the second to that motion. All members, except for Ms. George, voted aye. The motion carried.

Overview and Discussion of Draft Water Storage Facility Inventory

Mr. Henley noted that the AWBA is required to prepare a Water Storage Inventory Report (Report) at least every five years. The last inventory was approved in December of 2005. The inventory is used to determine if sufficient water storage facilities exist in the State to meet the needs of the Bank for the next ten years. It is also used to meet the requirements of the Storage and Interstate Release Agreement (SIRA), which limits interstate storage to facilities listed in the storage facility inventory report. Mr. Henley briefed Commission members on the preliminary draft prepared by staff, noting that a final draft that incorporates additional information would be provided at the next quarterly meeting. The Commission members directed staff to provide a draft of the report on the AWBA's webpage for public comment.

Call to the Public

Mr. Buschatzke congratulated Ms. Mitchell on her retirement and thanked her for all of her hard work and contributions to ADWR and the AWBA. He noted that he not only appreciated working with her, but for the friendship they had over the last 25 years.

Ms. Mitchell commented that she had a fulfilling career and had the opportunity to work on a number of interesting projects at ADWR and the AWBA. She noted that she values the friendships she has made and the support of the public.

Chairman Guenther announced the following meeting dates for 2011:

- March 16, 2011
- June 15, 2011
- September 21, 2011
- December 7, 2011

The meeting adjourned at 12:25 p.m.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹

January 11, 2011
Arizona Department of Water Resources



AUTHORITY MEMBERS
Sandra Fabritz-Whitney, 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 Sandra Fabritz-Whitney introduced herself and noted that as the new Acting Director of the ADWR, she assumes the chair of the Authority. She then welcomed the workshop attendees. All members of the Authority were present except for *ex-officio* members, Senator Steve Pierce and Representative Kirk Adams.

Introduction, History and Purpose of Workshop

Kim Mitchell provided an historical background regarding the water supply discussion that is focused on how the AWBA might obtain additional water supplies to meet its statutory obligations. She noted that initial discussions began several years ago for the following reasons: available CAP water was decreasing over time; state had new obligations that it did not have in 1996; and more competition for excess CAP water. In November of 2009 there was a work-study session regarding the need to acquire additional water supplies. A number of water sources and possible barriers to acquisition were identified. At the December 2009 AWBA meeting, staff was asked to initiate an examination of ways of meeting the new obligations, specifically, Indian firming and interstate water banking. It was realized that the Central Arizona Groundwater Replenishment District (CAGR) had similar obligations. Tom Carr was contracted by the Central Arizona Water Conservation District (CAWCD) to prepare a study that identified water supplies that met the needs of both the CAGR and the AWBA. In March of 2010, a progress report was provided to the AWBA. The primary focus of the work done by Mr. Carr was identification of potential water supplies and issues associated with acquisition of those new supplies.

Presentation on the Need and Opportunity for Acquisition of Additional Water Supplies to Assist in Meeting AWBA's Indian Firming and Interstate Water Banking Obligations

Mr. Carr gave a presentation on the AWBA's need and opportunities for acquiring additional water supplies (Presentation available on-line). Mr. Carr stated that his presentation had three goals: (1) to present an overview of the AWBA's needs; (2) to present an overview of supplies that could be available to meet those needs; and (3) to facilitate discussion regarding areas where policy or regulatory changes may be necessary. He provided a brief history regarding the subject, noting that the first initiative for acquiring supplies was for interstate purposes. The situation has changed somewhat in the last year because Southern Nevada Water Authority's (SNWA) growth and demand has decreased significantly and because of increased costs associated

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with the installation of the third intake into Lake Mead. Because of these circumstances, the AWBA and SNWA recently executed an Amended Letter Agreement that postpones storage on behalf of Nevada until 2015. In addition, SNWA chose to leave its unused apportionment in L. Mead rather than deliver it to Arizona for accruing long-term storage credits (credits). Leaving water in Lake Mead will potentially delay shortages to the Lower Basin. While the timing has shifted for needing interstate supplies, the amount of credits the AWBA must accrue has not and is still 668,000 acre-feet. CAP Excess water is expected to become less available over the next several years, thus creating a potential need to acquire additional supplies.

Mr. Carr noted that other entities, including the CAGR, also have growing water supply needs and that this competition for supplies creates opportunities for partnerships. He presented a table from the CAGR's 2004 Plan of Operation that showed a general schedule for its water supply acquisitions and projected need for CAP water. He also presented a chart that identified estimates of the magnitude and term for the AWBA and CAGR's acquisition of water.

Mr. Carr then reviewed the AWBA's obligations: (1) 1.25 MAF for SNWA, of which 600 KAF of credits have been accrued; (2) 15,000 AF for the Gila River Indian Community (GRIC) and 8,742 AF for other Indian tribes under the AZ Water Settlements Act; (3) 11,000 AF of NIA water + 2,000 AF of Fourth Priority (P4) Colorado River water for the Navajo Nation; and (4) 1,500 AF of P4 water for the Hopi Tribe. He noted that the firming need would be in the ballpark of 550,000 AF. He also reviewed the AWBA's obligation to deliver water to the Southside Replenishment Bank.

Mr. Carr then provided information regarding additional water supplies. He noted that there were many issues to be addressed before certain supplies could be acquired and that the issues were unique to each of the supplies. The supplies identified were: (1) Mainstream Colorado River contracts; (2) Mainstream decreed tribal rights; (3) Leasing of CAP Indian contracts; (4) Excess Yuma groundwater; (5) Groundwater transfers from Harquahala, Butler or McMullen Valley; (6) Excess long-term storage credits within the AMAs; (7) Effluent within the AMAs; (8) Poor quality groundwater (potentially through desalinization); and (9) System conservation and augmentation. Mr. Carr then reviewed specifics associated with each of the supplies, including volumes, availability and issues. Mr. Carr concluded by stating that the Authority would need to discuss all of the potential policy issues and changes associated with each supply.

Tom Buschatzke asked if the 550,000 AF for Indian firming included the firming amount for the Navajo Nation and Mr. Carr replied that it did not include the amount that is in excess of the requirements under the Settlements Act. Currently, the volume for the Navajo Nation is not fully known because of the on-going settlement negotiations. Mr. Henley noted that the volume for the Navajo Nation is different because the firming is required when 11,000 AF are not available to them on-river due to shortage. He also stated that, as of now, the AWBA does not have an obligation to the Navajo Nation. Once the settlement is complete, the state will have an obligation that may be passed on to the AWBA.

John Mawhinney questioned the lack of inclusion of M&I firming in these discussions.

Mr. Carr stated that the objective of his scope of work was to focus on additional supplies for Indian firming and for Interstate water banking. He noted that due to changes in the predictions for shortages on the Colorado River, it might be prudent to re-analyze the M&I firming numbers. Sandra Fabritz-Whitney asked if this was an augmentation to the AWBA 10-year plan. Ms. Mitchell noted that this was a separate effort and that the 10-year plan only examines if the AWBA's current goals and obligations can be met utilizing Excess CAP water. Out of the discussion, staff and the Authority members reached consensus that a new study might be needed to look at supply and demand for all AWBA activities beyond the ten-year period.

A question was raised about the Colorado River operation and over-deliveries to Mexico. It was explained that Reclamation is doing a reasonable job of operating the River and that Metropolitan Water District of Southern California, SNWA and CAWCD funded the construction of Brock Reservoir, which is currently operated by Reclamation to reduce over-deliveries to Mexico. Mr. Mawhinney questioned whether the AWBA could store effluent and Ken Slowinski stated that they could after all available Excess CAP water was stored. There was also discussion regarding the funds currently available to the AWBA to enter into agreements to acquire additional supplies. Ms. Mitchell noted that the AWBA could request funds under a new amended letter agreement with SNWA, if additional supplies became available before the SNWA payments resumed in 2015. Maureen George stated that the AWBA should investigate whether the funds could go directly from the SNWA to a third party in these types of situations. Tim Henley stated that he did not feel that the current lack of funds should curtail the discussion because obtaining many of the supplies identified would be a process that takes several years. Additionally, the same discussions should take place with regard to Indian firming; however, those discussions are more difficult because it is hard to calculate the costs until the firming volumes are known.

Mr. Mawhinney commented that the AWBA and CAWCD have worked cooperatively because of the AWBA's funding mechanisms and wondered if that might be problematic in the future if both the CAGR and the AWBA are competing for limited supplies. He wanted to clearly state that it should be the AWBA's mission to meet the AWBA's obligation first. He questioned whether the CAGR was trying to limit their obligation or may in the future. Larry Dozier (CAWCD) stated that the CAGR obligation is fairly open-ended but that there has been some discussion regarding ways to limit it. Mr. Dozier noted that the AWBA/CAWCD partnership has worked well in the past and that he does not anticipate that would change in the future. The parties could enter into a contractual arrangement to avoid competition. He stated that the CAP is the only way the AWBA can move water to recharge facilities and that it is important to CAP customers to settle Indian water claims within the state. Ms. George reiterated that the AWBA needed to re-examine the M&I firming goals in light of the current Indian firming discussions and to use that information as the beginning of any process to prioritize the AWBA activities.

Mr. Mawhinney commented that it appears as if the AWBA is a third or fourth party to all settlement discussions but that the AWBA is not included in them and only gets the bill at the end. He questioned whether this should be brought to the Legislature's attention or if there was some other forum to address this issue. Mr. Henley acknowledged that deals have been made without the involvement of the AWBA that

may ultimately result in AWBA obligations. He stated that he believes the appropriate forum is the Governor's office and that the AWBA needs to present these types of questions to the governor through the director of ADWR. Ms. Fabritz-Whitney agreed with Mr. Henley. Mr. Henley also noted that it would make sense to develop the discussion in a manner that examines how Indian firming obligations may impact the AWBA's ability to meet its M&I firming goals. It was mentioned that one potential discussion could focus on increasing the flexibility of how existing funds can be utilized; specifically, could the 4¢ *ad valorem* tax be used for Indian firming.

Ms. Fabritz-Whitney stated that a water supply and demand study would be a good starting point to address these issues. Lisa Atkins questioned whether the AWBA had the staff and resources to complete such a study. Mr. Henley stated that the Authority could direct staff to develop a scope for a study. Ms. Mitchell noted that the AWBA can use bank funds to complete a study of this nature. Mr. Buschatske stated that he would like to have a discussion regarding the AWBA's participation in the ADD Water process. Mr. Dozier stated that he looked forward to the AWBA's participation in the ADD Water and Just Water processes and meeting the CAGR obligation. These uses were considered as part of CAP's Strategic Plan. He feels that there is enough water in the short-term to meet all obligations. Mr. Buschatske stated that he felt staff should: (1) start looking forward to completing a water supply and demand study; (2) participate in ADD Water; and (3) coordinate with ADWR regarding ADD Water. He believes that the concept of ADD Water has changed and that the AWBA should now be involved.

Ms. Fabritz-Whitney left the meeting at 11:30 a.m. and Ms. George assumed the Chair.

Mr. Mawhinney wanted additional public input or comments. Ms. George opened the meeting to the public. There were no public comments.

Mr. Carr stated that he thought the workshop had been very productive and that the direction to prepare a water supply and demand study would be beneficial because it would result in a better understanding of the AWBA's obligations and finances. Mr. Buschatske noted that another component of the study should be related to climate change. Mr. Mawhinney noted that the AWBA should work with others doing similar work to insure that we are not duplicating efforts. Mr. Henley commented that other studies could be utilized with AWBA staff focusing on how the AWBA demands fit within them. Ms. Atkins stated that she anticipated that the high level of cooperation between CAP and the AWBA would continue.

The meeting adjourned at 11:35 a.m.

ARIZONA WATER BANKING AUTHORITY
Draft Minutes¹

Special Meeting
January 11, 2011
Arizona Department of Water Resources



AUTHORITY MEMBERS
Sandra Fabritz-Whitney, 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

Opening Remarks

Vice-Chairman Maureen George welcomed the attendees. She noted she would be chairing the Special Meeting until Chairman Sandra Fabritz-Whitney could join the meeting. All other members of the Authority were present except for *ex-officio* members, Senator Steve Pierce and Representative Kirk Adams.

Consideration of Action to go into Executive Session of the AWBA Commission pursuant to A.R.S. § 38-431.03(A)(3) to consult with AWBA's attorneys regarding AWBA's legal authorities to acquire water supplies to meet its Indian firming and interstate obligations.

Mr. Mawhinney made a motion to go into executive session. Lisa Atkins provided the second to that motion. The motion carried. Vice-Chairman George stated that open session would not reconvene before 2:30 p.m.

Chairman Whitney joined the executive session at approximately 1:30 p.m.

A motion was made at 2:05 p.m. to reconvene the regular session at 2:30 p.m. The motion carried.

Reconvene in Open Session

The regular session reconvened at 2:30 p.m.

Consideration of Action Related to Items Discussed in Executive Session

There was no action. Commission members directed staff to do additional research on issues discussed in the executive session, particularly:

1. How discussions in the executive session relate to municipal and industrial firming; and
2. Clarifying the AWBA's statutory authority

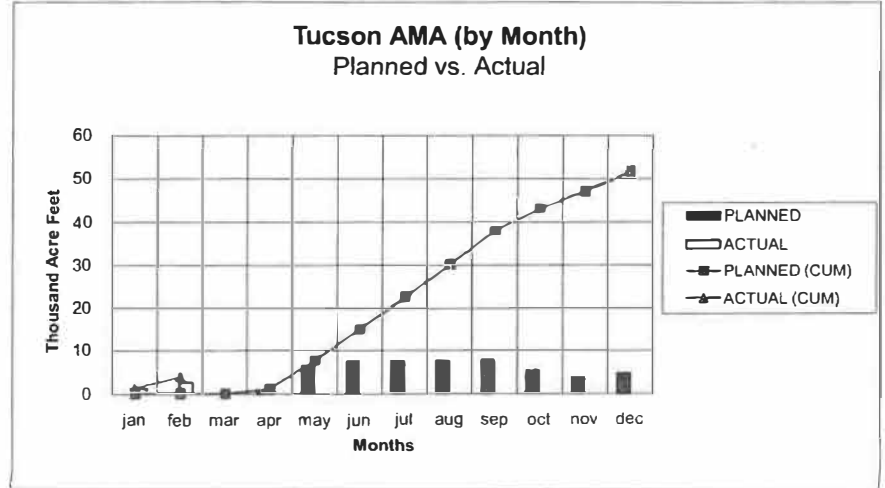
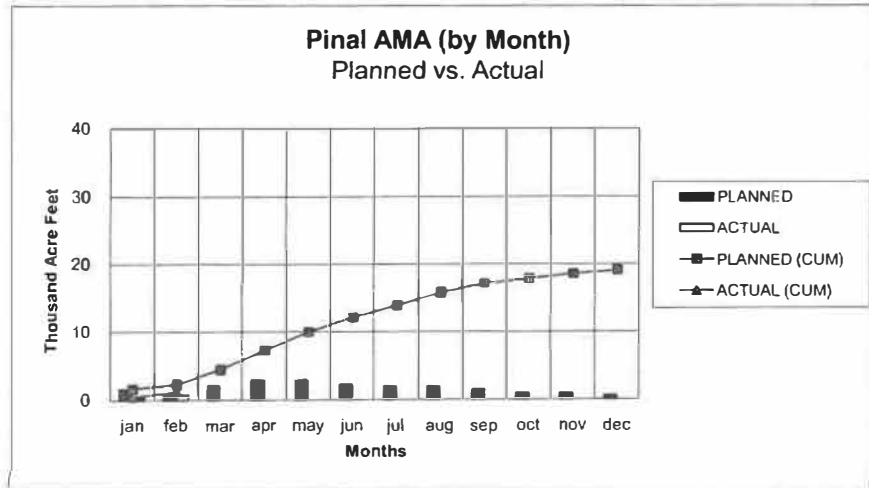
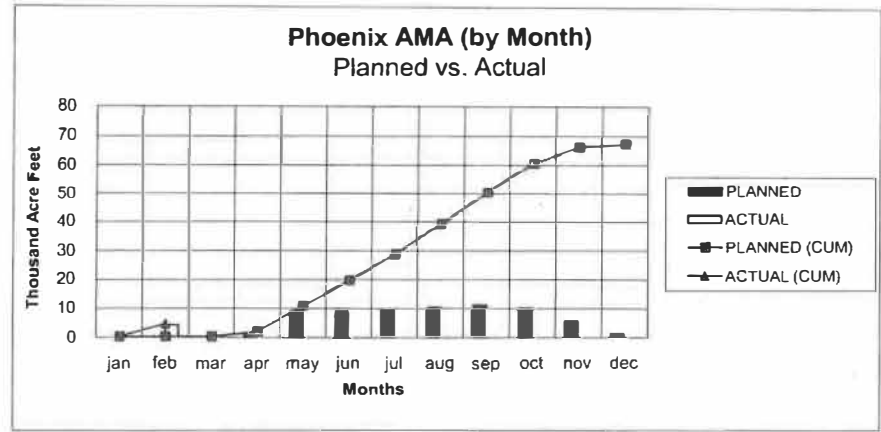
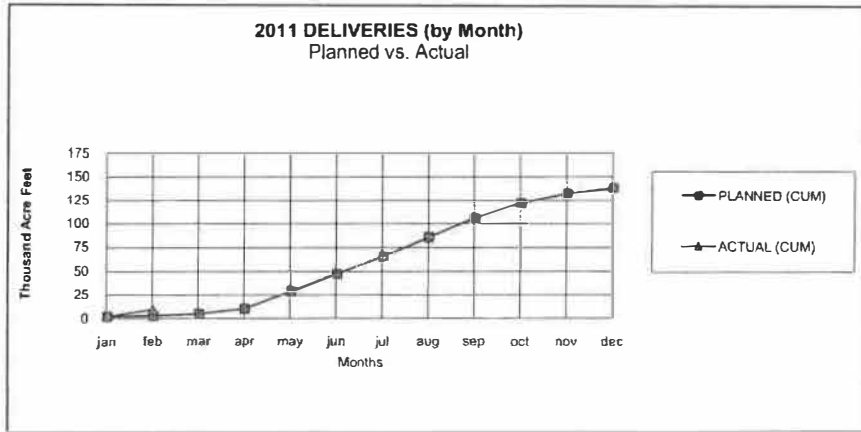
Adjourn

The meeting adjourned at 2:35 p.m.

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.

2011 Plan of Operation

INTRASTATE



Actual deliveries updated
Plan of Operation

28-Mar-11
1-Jan-11

Phoenix AMA

	jan	feb	mar	apr	may	jun	jul	aug	sep	oct	nov	dec	total
AGUA FRIA	0	0	0	0	0	0	0	0	0	0	0	0	0
HIEROGLYPHIC MTNS	0	0	0	0	0	0	0	0	0	0	0	0	0
TONOPAH DESERT	171	4,262	0	0	0	0	0	0	0	0	0	0	4,433
QCID	0	0	0	1,600	9,000	9,000	9,000	9,000	9,000	9,000	4,350	0	59,950
Subtotal	171	4,262	0	0	0	0	0	0	0	0	0	0	4,433
Total to date	171	4,433	4,433	4,433	4,433	4,433	4,433	4,433	4,433	4,433	4,433	4,433	4,433
Projected total to date	0	0	0	1,600	10,600	19,600	28,600	38,943	50,228	60,370	65,863	67,005	67,005

Pinal AMA

CAIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
MSIDD	380	720	0	0	0	0	0	0	0	0	0	0	1,100
HIDD	0	0	0	0	0	0	0	0	0	0	0	0	0
Southside Bank	0	0	500	0	0	0	0	0	750	750	750	250	3,000
Subtotal	380	720	0	0	0	0	0	0	0	0	0	0	1,100
Total to date	380	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100
Projected total to date	1,508	2,143	4,232	7,067	9,902	12,038	13,856	15,674	16,996	17,746	18,496	19,000	19,000

Tucson AMA

AVRA VALLEY	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
SAVSARP	0	0	0	0	0	0	0	0	0	0	0	0	0
LOWER SANTA CRUZ	1,146	2,526	0	0	0	0	0	0	0	0	0	0	3,672
KAI FARMS - Red Rock	0	0	0	1,000	2,000	2,000	2,000	2,000	2,000	300	0	0	11,300
Subtotal	1,146	2,526	0	0	0	0	0	0	0	0	0	0	3,672
Total to date	1,146	3,672	3,672	3,672	3,672	3,672	3,672	3,672	3,672	3,672	3,672	3,672	3,672
Projected total to date	0	0	0	1,000	7,500	15,000	22,500	30,000	37,736	43,036	46,736	51,436	51,436

TOTAL	1,697	7,508	0	0	0	0	0	0	0	0	0	0	9,205
Total to date	1,697	9,205	9,205	9,205	9,205	9,205	9,205	9,205	9,205	9,205	9,205	9,205	9,205
Projected total to date	1,508	2,143	4,232	9,667	28,002	46,638	64,956	84,617	104,960	121,152	131,095	137,441	137,441

AWBA Staff Proposal on Clarifying Contract Eligibility

The Arizona Water Banking Authority (AWBA) has several goals and contractual obligations. It was anticipated that those goals and obligations would be met utilizing unused Arizona Colorado River entitlement delivered through the Central Arizona Project. To this end the AWBA entered into an Excess Water Contract with the Central Arizona Water Conservation District. Continuing this contractual arrangement is the AWBA preferred method for meeting its goals and obligations. However, as Excess Water is reduced due to increased use by long term contractors and subcontractors, the AWBA may need to look at other opportunities for meeting its contractual obligations. One of those opportunities appears to be some level of participation in the ADD Water Program.

In earlier ADD Water discussions, AWBA indicated that they did not anticipate a need for the AWBA to hold a long-term ADD Water contract due to the nature of the AWBA's activities. This is still the case. However, because the AWBA may need to acquire water supplies on an interim basis to meet its current and future contractual obligations (Interstate and Indian firming), the AWBA did anticipate that it would be allowed to participate in the ADD Water Program in other ways.

Due to the evolving nature of the ADD Water Program there exists some uncertainty with regard to the AWBA's ability to participate in the ADD Water Program. This proposal is written to present the issue to the stakeholder group and provide recommendations for providing clarity regarding AWBA participation within the context of a changing program.

Specifically, the AWBA anticipated that the final ADD Water Program would include provisions allowing the AWBA to form potential partnerships with entities that hold a long-term contract or to purchase excess water made available under the ADD Water Program. At the AWBA meeting in December 2010, CAWCD staff also suggested the AWBA could be a customer of spot-market water.

Although AWBA and CAWCD staff have had discussions and agree that the AWBA would be allowed to participate in the ADD Water Program in the manner previously described, there has been no recognition of this in written materials distributed thus far. There has actually been written information that dictates otherwise. For example:

- One of the core principles identified under the Contracts section of the November 17, 2010 *Presentation of the ADD Water Program Proposal* that was prepared by CAWCD staff, is to encourage partnering among eligible entities (slide # 21). The next slide on contract eligibility states that the AWBA is "not eligible". This would indicate that the AWBA is not eligible for any type of ADD Water contract, particularly Spot-market contracts.
- The *CAP Staff Add Water Program Proposal* (Page3), states that the AWBA is not eligible to enter into a long-term contract. It does not indicate if the AWBA can participate in Spot-market contracts or partner with other entities that hold long-term contracts. Examples of mutually beneficial arrangements between ADD Water customers were also provided. Of these examples, it appears that the second example might apply to the AWBA. It is not clear if the

February 22, 2011

entity seeking to partner with a long-term contract holder must also meet the same requirements as the holder of the long-term contract.

The AWBA recommends that in addition to continuing its contractual relationship with CAWCD for Excess Water, language be included in all future versions of ADD Water Program proposals that clarifies how the AWBA would be allowed to participate in the ADD Water Program.

Proposed language is as follows:

The Arizona Water Banking Authority (AWBA) is not eligible to hold any type of long-term contract under the ADD Water Program. The AWBA is eligible to:

1. Enter into agreements with holders of long-term contracts for short-term or interim use of contracted water.
2. Purchase any excess water within the ADD Water Program at a price established for the ADD Water Program.
3. Hold any other type of short-term or spot-market contracts.

March 29, 2011

Arizona Water Banking Fund

Legislative Transfers:

Pursuant to H. B. 2001, Section 148, signed on March 10, 2010, an amount of \$10,300 was transferred from the Arizona Water Banking Fund's Administration subaccount on March 3, 2011 as part of the reduction in personnel expenses and related benefit costs for fiscal year 2011. The reductions were made following the procedures outlined in H.B. 2003 and include a performance pay reduction of 2.75 percent and six mandatory furlough days.

Proposed Legislative Transfers:

The JLBC has proposed a fund reduction and transfer of \$312,000 from the AZ Water Banking Fund for Fiscal Years 2012 and 2013. Senate Bill 1612 identifies the reduction for FY 2012. The Executive Budget also identifies a transfer of \$312,000 from the AWB Fund for FY 2012.

SB 1470: county water authority; repeal

Prime Sponsor: Gould

Summary: Repeals A.R.S. Title 45, Chapter 13. Provides for the dissolution of any county water authority formed under Title 45, Chapter 13 – the Mohave County Water Authority. Requires legislative council to prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the fiftieth legislature, second regular session.

Senate Status: Assigned to WLRD, RULES.

- Scheduled for hearing in WLRD on 2/9/11.
- Passed WLRD on 2/9/11 (4-2-0-0). *Senators Allen and Shooter voted for the bill in committee, but expressed serious reluctance to vote for it on the floor. During the hearing, opponents of the bill (MCWA member cities and MCWA) vowed to work with Senator Gould and address his and Buster Johnson's concerns in hope of preventing this bill from moving forward.*
- Placed on Consent Calendar on 2/14/11.
- Passed 3rd Read on 2/22/11 (16-14-0-0).
- Transmitted to the House on 2/22/11.

House Status: Assigned to AW, ENV, RULES on 2/28/11.

Senate Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1470

AN ACT

REPEALING TITLE 45, CHAPTER 13, ARIZONA REVISED STATUTES; RELATING TO COUNTY WATER AUTHORITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Title 45, chapter 13, Arizona Revised Statutes, is repealed.

4 Sec. 2. Dissolution of existing county water authority;
5 transfer

6 For any county water authority organized pursuant to title 45, chapter
7 13, Arizona Revised Statutes, as repealed by this act, that is in existence
8 on the effective date of this act, the following apply:

9 1. If all contractual obligations and debts of the authority are
10 satisfied and another governmental entity or entities accept dedication of
11 all authority projects, the authority shall be dissolved.

12 2. The directors who are appointed by authority members pursuant to
13 section 45-2221, subsection B, Arizona Revised Statutes, as repealed by this
14 act, shall adopt by resolution a plan of termination to be executed within
15 six months. The plan of termination is judicially enforceable and shall
16 contain the following provisions:

17 (a) Except as provided in subdivision (b) of this paragraph, all
18 rights to the delivery of water that were transferred to the authority in
19 connection with the formation of the authority shall be returned to the
20 municipal corporation that transferred these rights, subject to approval of
21 the secretary of the interior in consultation with the director of water
22 resources.

23 (b) If, before the dissolution of the authority, an authority member
24 has either paid to the authority all of its pro rata share of the amount
25 prescribed by section 45-2281, subsection C, Arizona Revised Statutes, as
26 repealed by this act, as prescribed in its subcontract with the authority or
27 has entered into a contract to pay that amount to the entity entitled to the
28 payment of that amount, the authority member retains the right to the
29 delivery of Colorado river water for which the member's payment was made and
30 the right to the delivery of Colorado river water shall not be returned as
31 provided in subdivision (a) of this paragraph.

32 3. All property of the authority that is not dedicated to another
33 governmental entity shall be transferred to the department of water resources
34 for use in the county in which the authority is formed. All monies of the
35 authority deposited in the grant fund as of the date of dissolution of the
36 authority shall be disbursed as provided in section 45-2281, Arizona Revised
37 Statutes, as repealed by this act. All other unexpended and unencumbered
38 monies of the authority shall be disbursed among authority members as
39 provided in a resolution of the board.

40 Sec. 3. Conforming legislation

41 The legislative council staff shall prepare proposed legislation
42 conforming the Arizona Revised Statutes to the provisions of this act for
43 consideration in the fiftieth legislature, second regular session.

STATEMENT OF WORK

AWBA Demand and Supply Analysis

Purpose:

Determine the potential for using existing and future AWBA Long-term Storage (LTS) Credits to meet the CAP and On-river Municipal and Industrial (M&I) and Indian firming requirements during times of shortage.

Scope of Work:

A series of operational scenarios will be created using the Colorado River Simulation Model, which has been modified using Arizona assumptions for operating the Colorado River. The Model will be run for the period of 2008 to 2138 (2138 is the potential ending year for the 100 years identified in the Northern Arizona Indian Water Rights Settlement (NAIWRS)). The model will start with 2010 reservoir conditions. The model creates several scenarios that show the timing and magnitude of shortages that will occur to CAP M&I subcontractors, On-river domestic users, Arizona Water Settlement CAP Indian contractors, and Navajo settlement water identified in the proposed NAIWRS. Reductions to CAP non-Indian Agricultural Pool Water will be used to determine the timing and magnitude of the Indian shortages. In addition, a subjective analysis using current pricing information will attempt to estimate the cost of providing those future supplies.

Analysis:

The analysis will consist of selecting four scenarios based on the number of shortages that occur in each scenario. The scenarios will be ranked based on the number of shortages that occur in each scenario. Four scenarios will be selected for comparison; the upper and lower quartile and two median scenarios: one where the shortages occur early in the scenario and one where they occur later in the scenario. Those scenarios will be displayed on a spreadsheet and the current and estimated future LTS Credits will be used to the extent possible to firm the projected shortages. The analysis will identify to what extent the AWBA can meet its firming goals and obligations, while still meeting the obligations identified in the AWBA's agreement with Nevada. It will also, based on the selected scenarios, identify the timing and to what magnitude the AWBA will not be able to meet its goals and obligations. Based on the analysis, the AWBA will be able to determine if and when additional supplies will be needed to meet its obligations. If additional supplies are needed, an estimate of the cost of those future supplies can be developed based on potential sources and when they are needed.

3/12/2011

Performance:

Existing AWBA staff, with the assistance of ADWR's Colorado River Modeling Section should be able to complete the work identified.

Timing:

Colorado River Simulation Model scenarios will be completed April 31, 2011.

Preliminary spreadsheet analysis will be available for review May 13, 2011.

Draft spreadsheet: available May 31, 2011.

Deliverables:

1. Four Colorado River Simulation Model scenarios and supporting assumptions.
2. Spreadsheet analysis showing the relationship between shortage events and the available LTS Credit for firming CAP M&I subcontractors, On-river domestic users, Arizona Water Settlement CAP Indian contractors, and Navajo settlement water.
3. A subjective evaluation of the need to develop additional supplies to meet the obligations of the AWBA with estimates of potential costs for those new supplies.

ARIZONA WATER BANKING AUTHORITY

Potential Policy Regarding Distribution of Long-Term Storage Credits for M&I Firming

As CAWCD's recovery planning has progressed, questions have been raised concerning the AWBA's role in the plan and if the AWBA needs to develop policies regarding the distribution of credits.

Four Cent Tax Credits

The authority's role is fairly specific in the distribution of the credits earned with the four cent tax:

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

The statute is silent on how the AWBA will accomplish the distribution. Some questions that will need to be discussed and answered are:

- When are the credits distributed to CAWCD?
- Should credits be distributed for water that is requested for the purpose of accruing long-term storage credits?
- Are credits returned to the AWBA if CAWCD did not actually need them or do they stay with CAWCD until they are needed?
- What accounting is required for the AWBA to be sure the credits are used in the County where the money was collected?
- Does the AWBA retain any control over the credits once distributed to CAWCD?
- Should the AWBA be concerned about an equitable distribution of the credits within the County?

Withdrawal Fee Credits

The authority's role is not as specific in the distribution of the credits earned with the withdrawal fees:

...shall distribute or extinguish long-term storage credits accrued with monies collected in accordance with section 45-611, subsection C, paragraph 3 only for the benefit of the active management area in which the monies were collected. The authority may distribute or extinguish these long-term storage credits to the extent necessary to meet the demands of CAWCD's municipal and industrial subcontractors during times in which CAWCD's diversions from the Colorado river have been or will be disrupted by shortages on the Colorado river or by disruptions in operation of the central Arizona project, to implement the settlement of water right claims by Indian communities in this state or, on request from the director, to meet the other water management objectives set forth in chapter 2 of this title.

Because the statute is not as specific when dealing with the withdrawal fee credits, an entire set of different questions could arise leading to additional polices. Some of those questions are:

- Should the AWBA establish a priority for the use of withdrawal fee credits?
- Should the AWBA reserve a quantity of withdrawal fee credits that will be available for M&I firming?
- Should the AWBA wait until there is an actual demand for the credits before they are identified?
- Should a formal consultation process be developed with CAWCD and M&I subcontractors before credits are distributed?
- If withdrawal fee credits are identified, who does the AWBA distribute those credits to?
- Should the AWBA treat those credits similar to the four cent tax credits and distribute to CAWCD?
- Once distributed for M&I firming, how does the AWBA insure the credits are used in the Active Management Area where the fees are collected?
- How are credits returned to the AWBA if they are not fully utilized by the entity that received the credits?
- Does the AWBA distribute these credits before the four cent tax credits are fully utilized?

March 9th, 2011

Central Arizona Project
P.O. Box 43020
Phoenix, AZ 85080-3020
Board of Directors

Dear Mr. Modeer,

Recently, CAP staff presented stakeholders of the Arizona Municipal Water Users Association (AMWUA) with a proposed shortage and recovery policy, including the document entitled "Recovery of Stored CAP Water for M&I Subcontractors Guiding Principles" dated November 19, 2010. While the presentation was clearly articulated and produced meaningful dialogues, a number of the issues raised need additional discussion and clarification. However, the City of Mesa is very receptive to shortage and recovery planning and thought this was a very proactive gesture as shortages seem to be looming for CAP subcontractors.

Historically, it was this type of intelligent proactive planning that resulted in the creation of the Arizona Water Banking Authority (AWBA), which has been storing excess CAP water brought into this state through the Central Arizona Project to protect Arizona municipal and industrial (M & I) users against future water shortages (ARS§ 45-2401(H)(2) et seq). The legislature provided the AWBA with the mission, power and duty to "distribute long-term storage credits (Credits) earned by the authority to make water available to M & I users of Colorado river water in this state that are inside or outside the CAWCD service area" (ARS§ 45-2423(B)(7)(e)). Mesa recognizes the importance of this mission in light of Arizona's priority to Colorado water under *Arizona v. California*. At the same time, it is also important to recognize the parameters under which the AWBA must operate. Significantly, credits accrued through property taxes (property tax credits) *must* be distributed to CAWCD to the extent necessary to fulfill demands of M & I subcontractors during shortage disruptions. ARS § 45-2457(B)(7). Conversely, Credits accrued without use of property taxes may be distributed at the discretion of the AWBA. ARS § 45-2457(D)

At the meeting, CAWCD staff highlighted certain proposed points regarding shortage sharing and recovery planning:

- 1) The CAWCD staff suggested that "*Shortage sharing may not be handled equally across the entire CAP service area on a "pro-rata" sharing basis*". The City respectfully submits that this could occur only under voluntary arrangements. The City has always relied upon the provisions in section 4.7 of our Subcontract that require a pro-rata shortage sharing model. We presume that CAWCD staff is contemplating voluntary sales, exchanges, or other arrangements that can take place after the pro-rata distribution has been determined, and do not believe that the CAWCD has the ability to force any alternative result.
- 2) The CAWCD staff suggested that "*The CAP would determine (quantify) the sub-contractor's shortage and recovery needs based on "demands"*". The City presumes that the CAWCD recognizes that its contractual obligation is to maintain equity across the M & I pool in fulfillment of its Subcontract orders during shortage conditions, and therefore has no role in determining the

relative value of use by subcontractors for Project Water during a shortage. Therefore, we are confused about this statement and would appreciate clarification of CAWCD's intent.

In addition, Mesa offers the following comments regarding the "Guiding Principles" draft document:

- Page 2-11 "Development of Facilities for Direct Recovery" states that the CAWCD will develop recovery facilities, and page 2-12 states that "CAWCD will include the costs of recovered CAP water into the regular CAP water rates." Mesa respectfully submits that recovered AWBA credits are not within the definition of Project Water as set forth in the Master Repayment Contract and the Revised Stipulation. Therefore, the CAWCD has no basis for charging subcontractors for recovered AWBA credits through the Subcontracts. The only mechanism for such charges would be through a new, voluntary arrangement or contract. Similarly any arrangements to move non-Project water through the canal during a shortage must also be voluntary, and the costs of such activities, including pumping costs, should not be subsidized by other subcontractors, tri-County taxpayers, or the federal government, who have all contributed to the costs of the physical infrastructure of the canal for the purpose of delivering Project Water. In other words, those who receive the benefit of wheeling non-Project water should pay equitably for that benefit. Such payments should be used to offset Fixed OM&R charges, which would otherwise be higher during shortage situations since fixed costs will be distributed over smaller quantities of Project Water.
- Page 2-8 "Goals for Recovery" states that "CAWCD will be responsible for the recovery of the water stored by AWBA." State statute is clear that the AWBA has the authority and responsibility to distribute credits in fulfillment of its purposes. However, again, recovered AWBA water is not Project Water and the CAWCD has no contractual basis for charging subcontractors for recovered AWBA credits through the Subcontracts. A.R.S. 45-2457 states that "the Authority shall distribute these long-term storage credits to CAWCD to the extent necessary to meet the demands of CAWCD's municipal and industrial subcontractors during times in which CAWCD's diversions from the Colorado river have been or will be disrupted by shortages on the Colorado river or by disruptions in the operation of the central Arizona project". Thus it is certainly reasonable and the statute clearly contemplates that, rather than recovering this water, the CAWCD would distribute the credits to M&I subcontractors who can then recover the water themselves more efficiently and inexpensively. Moreover, A.R.S. 45-2457 also states that "the Authority may distribute or extinguish these long-term storage credits to the extent necessary to meet the demands of CAWCD's municipal and industrial subcontractors during times in which CAWCD's diversions from the Colorado river have been or will be disrupted by shortages on the Colorado river," which clearly indicates that the AWBA may distribute credits to an entity other than the CAWCD, or alternatively, extinguish credits rather than distribute them at all. Extinguishment would occur, for example, in a case where an M&I Subcontractor pumps additional groundwater and a like amount of AWBA credits are extinguished.
- Page 2-10 "Indirect Recovery with Willing Partners Only" states that the CAWCD may pay for operating costs of third parties to recover AWBA credits. We agree this is contractually possible, but the costs of such arrangements cannot be included in fixed OM&R charges for Project Water as again, it is not Project Water this is being recovered. Rather, the charges must be assigned to those who, through a voluntary contract with the CAWCD, wish to receive deliveries of recovered AWBA credits through the CAP canal. Presumably a wheeling contract with the Bureau will be necessary to accomplish this.

The City would also like to better understand what method the AWBA will use to determine the distribution or extinguishment of AWBA credits. While the City believes the standalone authority of the AWBA is clear in statute, we believe additional procedures regarding the distribution or extinguishment of credits are needed which may necessitate the use of the State's rule making process.

While it may make economic sense for multiple entities, including the CAWCD, to invest in new well fields and to wheel non-Project recovered water through the canal, such arrangements can only be voluntary. The simple distribution of credits may make significantly more sense economically and from a resource perspective for those cities that have adequate well capacity. If the CAWCD is interested in examining whether recovery for multiple entities can be more efficiently (and less expensively) achieved through economies of scale and movement of recovered AWBA water through the canal through voluntary arrangements, Mesa is happy to consider participation in such proposals. However, this arrangement cannot be assumed.

The City of Mesa respectfully requests a structured stakeholder process whereby the provisions of the various statutes and Subcontracts can be properly outlined and incorporated into a well defined policy. Thank you again for taking proactive steps to address shortage issues. We look forward to working with you on these important issues.

My Highest Regards,



Mark Holmes
Water Resources Advisor

cc: Arizona Water Banking Authority
Arizona Department of Water Resources
Arizona Municipal Water Users Association
U.S. Bureau of Reclamation
City of Mesa, City Manager

WHITE PAPER: INDIAN FIRING AND CAP M&I PRIORITY FIRING CONCEPT

Summary:

Questions have been raised regarding how the Arizona Water Banking Authority (AWBA) will fund its Indian firing obligations while meeting CAP M&I priority firing goals. The AWBA and CAP staffs have developed a preliminary concept that addresses both AWBA firing purposes; using existing and future sources of funding and credits, without requiring legislative changes. The general concept operates in two parts. First, the AWBA will reserve current and future Withdrawal Fee credits for Indian firing purposes. Second, CAWCD will commit to using current and future 4-cent revenues as a basis to fund CAP M&I priority firing across all three AMAs. CAWCD will then coordinate with the AWBA and interested CAP M&I subcontractors to define the optimal approaches to meet the CAP M&I priority firing goals and potentially enhance the reliability of CAP M&I subcontract supplies.

Initial analysis of the concept shows that current and future Withdrawal Fee credits could be sufficient to meet current and projected Indian firing needs. In addition, the CAP M&I priority firing goals could be met using existing and projected 4-cent funds collected by the Central Arizona Water Conservation District (CAWCD) scheduled to be collected through 2016.

Background:

The AWBA, acting as the agent for the State of Arizona, has a statutory obligation to provide firing for a portion of CAP NIA priority water supplies reallocated to Indian tribes for Indian water rights settlements. The Arizona Water Settlements Act of 2004 requires the State to firm 23,724 af of CAP NIA priority water provided for Indian water rights settlements for a 100 year period (2008 – 2108). The State is considering additional Indian firing obligations as part of a potential settlement with the Navajo Nation and Hopi Tribe (the "NAIWR Settlement"). Under the settlement proposal, the State would be obligated to firm an additional 2,500 af of CAP NIA priority water through 2108 and up to 11,000 af of CAP NIA priority water for the period 2108 – 2139.

The original intent was for the State to provide general fund appropriations to the AWBA to meet the Indian firing obligations. In 2006, Arizona appropriated \$13.5 million as a first step to fund Indian firing. However, \$12.4 million of those funds were subsequently swept by the State due to budget shortfalls. It is unlikely that general fund appropriations will be available for Indian firing purposes in the near future.

In the event that general fund appropriations are not available, the AWBA is authorized to use credits funded from Withdrawal Fees for Indian firing purposes. The AWBA may also use Withdrawal Fee credits for CAP M&I priority firing or water management purposes. At present, the AWBA has not prioritized the use of Withdrawal Fee credits however, for reporting purposes has shown those credits being utilized for both CAP M&I and Indian firing purposes.

In addition, the AWBA has established goals to firm CAP M&I priority water supplies in each of the three AMAs served by CAWCD. While those goals are not a statutory obligation, the AWBA has relied on

funding from the 4-cent tax collected by CAWCD to meet the M&I firming goals. However, current law requires that when funds are transferred from CAWCD to the AWBA for CAP M&I priority firming, those funds may only be used for the benefit of the county from which they were collected. This geographic restriction severely limits the ability of the AWBA to meet firming goals of the M&I subcontracts in the Pima and Pinal counties using only the 4-cent tax.

Discussion:

The preliminary concept identifies a method for the AWBA to meet the Indian firming obligations and to meet the CAP M&I priority firming goals. By reserving current and future Withdrawal Fee credits for Indian firming purposes, the AWBA can meet its statutory obligations pursuant to current and proposed Indian water rights settlements. These settlements provide substantial benefits to CAWCD and its customers in the form of water supply security and certainty.

In addition, the preliminary concept identifies a potential means to resolve the most significant obstacle restricting the AWBA's progress on meeting the CAP M&I priority firming goals, particularly in the Tucson AMA. The obstacle is the geographic restriction on how the AWBA may use the 4-cent funds conveyed from CAWCD for CAP M&I priority firming. CAWCD has much greater flexibility on using the 4-cents funds as a basis for CAP M&I priority firming than the AWBA. The concept anticipates that current and future credits stored for CAP M&I priority firming will reside at the AWBA.

This preliminary concept does not address whether there is sufficient excess CAP water available to meet the Indian firming and CAP M&I priority firming storage goals. Current projections show sufficient excess supplies are available in the current Access to Excess AWBA/CAGRDR Replenishment Reserve/Federal pool to include Indian firming needs. However, to address CAP M&I priority firming storage needs, the Access to Excess policy, set for review in 2013 for 2014 deliveries, may require revision. Further, if projections show that the excess CAP supply is not sufficient for traditional water banking to meet these goals, CAWCD may need to consider alternative means to address CAP M&I priority firming goals. Alternatives could include the acquisition of alternative water supplies, fallowing/forbearance agreements, and the acquisition of existing storage credits. Alternative approaches could result in enhanced reliability of CAP M&I subcontracts.

There are two additional issues that arise from the preliminary concept. First, are there ways to ensure that Withdrawal Fee funds remain available for Indian firming purposes? A concept under consideration is to include the commitment of Withdrawal Fee funds as part of proposed settlement legislation. Second, what form of agreement or commitment between AWBA and CAWCD would to be made regarding the use of 4-cent funds as the basis for funding CAP M&I priority firming? One approach could be to amend the existing IGA between the AWBA and CAWCD.

In conclusion, the preliminary concept outlined above could address the AWBA's Indian firming obligations and CAP M&I priority firming goals using existing and future available resources. Additional efforts are ongoing to refine the concept and address how the AWBA and CAWCD move forward on this issue.