

State of Arizona
House of Representatives
Forty-second Legislature
Second Regular Session
1996

FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 308

HOUSE BILL 2494

AN ACT

AMENDING SECTIONS 45-105, 45-107, 45-421, 45-566, 45-567, 45-611, 45-612, 45-613, 45-614 AND 45-615, ARIZONA REVISED STATUTES; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, CHAPTER 291, SECTION 32; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, CHAPTER 291, SECTION 33; AMENDING SECTIONS 45-852.01, 45-896.01 AND 45-1972, ARIZONA REVISED STATUTES; AMENDING TITLE 45, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14; AMENDING SECTIONS 48-3710, 48-3713, 48-3713.01, 48-3713.02, 48-3715, 48-3715.02 AND 48-3715.03, ARIZONA REVISED STATUTES; AMENDING LAWS 1994, CHAPTER 278, SECTION 14; MAKING AN APPROPRIATION; RELATING TO WATERS.

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

2 Section 1. Section 45-105, Arizona Revised Statutes, is amended to
3 read:

4 45-105. Powers and duties of director

5 A. The director may:

6 1. Formulate plans and develop programs for the practical and
7 economical development, management, conservation and use of surface water,
8 groundwater and the watersheds in this state, including the management of
9 water quantity and quality.

10 2. Investigate works, plans or proposals pertaining to surface water
11 and groundwater, including management of watersheds, and acquire, preserve,
12 publish and disseminate related information which the director deems
13 advisable.

14 3. Collect and investigate information upon and prepare and devise
15 means and plans for the development, conservation and utilization of all

1 waterways, watersheds, surface water, groundwater and groundwater basins in
2 this state and of all related matters and subjects, including irrigation,
3 drainage, water quality maintenance, regulation of flow, diversion of running
4 streams adapted for development in cooperating with the United States or by
5 this state independently, flood control, utilization of water power,
6 prevention of soil waste and storage, conservation and development of water
7 for every useful purpose.

8 4. Measure, survey and investigate the water resources of this state
9 and their potential development and cooperate and contract with agencies of
10 the United States for such purposes.

11 5. Acquire, hold and dispose of property, including land,
12 rights-of-way, water and water rights, as necessary or convenient for the
13 performance of the groundwater and water quality management functions of the
14 department.

15 6. Acquire, other than by condemnation, construct, improve, maintain
16 and operate early warning systems for flood control purposes and works for
17 the recovery, storage, treatment and delivery of water.

18 7. Accept grants, gifts or donations of money or other property from
19 any source, which may be used for any purpose consistent with this title.
20 All property acquired by the director is public property and is subject to
21 the same tax exemptions, rights and privileges granted to municipalities,
22 public agencies and other public entities.

23 8. Enter into an interagency contract or agreement with any public
24 agency pursuant to title 11, chapter 7, article 3 and contract, act jointly
25 or cooperate with any person to carry out the provisions and purposes of this
26 title.

27 9. Prosecute and defend all rights, claims and privileges of this
28 state respecting interstate streams.

29 10. Initiate and participate in conferences, conventions or hearings,
30 including meetings of the Arizona water resources advisory board,
31 congressional hearings, court hearings or hearings of other competent
32 judicial or quasi-judicial departments, agencies or organizations, and
33 negotiate and cooperate with agencies of the United States or of any state
34 or government and represent this state concerning matters within the
35 department's jurisdiction.

36 11. Apply for and hold permits and licenses from the United States or
37 any agency of the United States for reservoirs, dam sites and rights-of-way.

38 12. Receive and review all reports, proposed contracts and agreements
39 from and with the United States or any agencies, other states or governments
40 or their representatives and recommend to the governor and the legislature
41 action to be taken on such reports, proposed contracts and agreements. The
42 director shall take action on such reports, if authorized by law, and review
43 and coordinate the preparation of formal comments of this state on both the
44 preliminary and final reports relating to water resource development of the

1 United States army corps of engineers, the secretary of the interior and the
2 secretary of agriculture, as provided for in the flood control act of 1944
3 (58 Stat. 887; 33 United States Code section 701.1).

4 13. Contract with any person for imported water or for the acquisition
5 of water rights or rights to withdraw, divert or use surface water or
6 groundwater as necessary for the performance of the groundwater management
7 functions of the director prescribed by chapter 2 of this title. If water
8 becomes available under any contract executed under this paragraph, the
9 director may contract with any person for its delivery or exchange for any
10 other water available.

11 14. Recommend to the administrative heads of agencies, boards and
12 commissions of this state, and political subdivisions of this state, rules
13 to promote and protect the rights and interests of this state and its
14 inhabitants in any matter relating to the surface water and groundwater in
15 this state.

16 15. Provide information to the director of the division of emergency
17 management of the department of emergency and military affairs according to
18 section 26-322.

19 16. Conduct feasibility studies and remedial investigations relating
20 to groundwater quality and enter into contracts and cooperative agreements
21 under section 104 of the comprehensive environmental response, compensation,
22 and liability act of 1980 (P.L. 96-510) to conduct such studies and
23 investigations.

24 17. Dispose informally by stipulation, agreed settlement, consent order
25 or alternative means of dispute resolution, including arbitration, if the
26 parties and director agree, or by default of any case in which a hearing
27 before the director is required or allowed by law.

28 18. Cooperate and coordinate with the appropriate governmental entities
29 in Mexico regarding water planning in areas near the border between Mexico
30 and Arizona and for the exchange of relevant hydrological information.

31 B. The director shall:

32 1. Exercise and perform all powers and duties vested in or imposed
33 upon the department and adopt and issue rules necessary to carry out the
34 purposes of this title.

35 2. Administer all laws relating to groundwater, as provided in this
36 title.

37 3. Be responsible for the supervision and control of reservoirs and
38 dams of this state and, when deemed necessary, conduct investigations to
39 determine if the existing or anticipated condition of any dam or reservoir
40 in this state is or may become a menace to life and property.

41 4. Coordinate and confer with and may contract with:

42 (a) The Arizona power authority, game and fish commission, state land
43 department, Arizona outdoor recreation coordinating commission, department
44 of commerce, radiation regulatory agency, active management area water

1 authorities or districts and political subdivisions of this state with
2 respect to matters within their jurisdiction relating to surface water and
3 groundwater and the development of state water plans.

4 (b) The department of environmental quality with respect to title 49,
5 chapter 2 for its assistance in the development of state water plans.

6 5. Cooperate with the Arizona power authority in the performance of
7 the duties and functions of the authority.

8 6. Maintain a permanent public depository for existing and future
9 records of stream flow, groundwater levels and water quality and other data
10 relating to surface water and groundwater.

11 7. Maintain a public docket of all matters before the department which
12 may be subject to appeal pursuant to this title.

13 8. Investigate and take appropriate action upon any complaints
14 alleging withdrawals, diversions, impoundments or uses of surface water or
15 groundwater that may violate this title or the rules adopted pursuant to this
16 title.

17 9. Report to and consult with the Arizona water resources advisory
18 board at regular intervals.

19 10. Adopt an official seal for the authentication of records, orders,
20 rules and other official documents and actions.

21 11. Provide staff support to the Arizona water protection fund
22 commission established pursuant to chapter 12 of this title.

23 12. EXERCISE AND PERFORM ALL POWERS AND DUTIES INVESTED IN THE
24 CHAIRPERSON OF THE ARIZONA WATER BANKING AUTHORITY COMMISSION AS PRESCRIBED
25 BY CHAPTER 14 OF THIS TITLE.

26 13. PROVIDE STAFF SUPPORT TO THE ARIZONA WATER BANKING AUTHORITY
27 ESTABLISHED PURSUANT TO CHAPTER 14 OF THIS TITLE.

28 Sec. 2. Section 45-107, Arizona Revised Statutes, is amended to read:

29 45-107. Cooperation with the secretary of the interior of the
30 United States

31 A. The director is authorized, for and on behalf of the state of
32 Arizona, to consult, advise and cooperate with the secretary of the interior
33 of the United States, as follows:

34 1. In the exercise of any authority conferred upon the secretary of
35 the interior under the provisions of sections 4, 5 and 14 of the act commonly
36 known as the Boulder Canyon project act (43 United States Code sections 617
37 through 617t), as contemplated and provided in section 16 of the Boulder
38 Canyon project act.

39 2. In respect to the authority of the secretary of the interior to
40 contract for the delivery of water of the main stream of the Colorado river
41 for use within the state of Arizona.

42 3. In respect to all powers and duties of the secretary of the
43 interior under the provisions of that certain contract between the United
44 States of America, acting by Harold L. Ickes, secretary of the interior, and

1 the state of Arizona, acting by the Colorado river commission, entered into
2 on the 9th day of February, 1944, pursuant to chapter 46 of the 1939 session
3 laws of Arizona, and approved by chapter 4 of the 1944 session laws of
4 Arizona.

5 4. In respect to the exercise by the secretary of the interior of any
6 authority relative to the water of the Colorado river conferred upon the
7 secretary of the interior by the provisions of any legislation enacted by the
8 Congress of the United States of America.

9 5. IN RESPECT TO THE DEVELOPMENT, NEGOTIATION AND EXECUTION OF
10 INTERSTATE BANKING AGREEMENTS IN ACCORDANCE WITH CHAPTER 14 OF THIS TITLE.

11 B. The powers and duties of the director authorized by this section
12 shall be limited and restricted to only that quantity of water which may be
13 available for use in the state of Arizona, after the satisfaction of all
14 existing contracts between the secretary of the interior and users in the
15 state of Arizona for the delivery of water of the main stream of the Colorado
16 river, and shall not extend to any such contracts, any amendments or
17 supplements thereto, or to any federal statute enacted before ~~the effective~~
18 ~~date of this section~~ JUNE 21, 1962 pertaining to any federal reclamation
19 project within the state of Arizona constructed and using water of the main
20 stream of the Colorado river before ~~the effective date of this section~~ JUNE
21 21, 1962. Nothing shall be done under the authority of this section which
22 will impair existing rights in the state of Arizona for the diversion and use
23 of Colorado river water.

24 C. The privilege and right of individuals, irrigation districts,
25 corporations, state departments, agencies, boards, commissions or political
26 subdivisions of the state of Arizona to negotiate and directly contract with
27 the secretary of the interior for the delivery of water of the main stream
28 of the Colorado river for use within the state of Arizona and to negotiate
29 and subcontract with the secretary of the interior and a multi-county water
30 conservation district for the delivery of Colorado river water through the
31 central Arizona project for use within the state of Arizona, and all rights
32 under such contracts or subcontracts shall not be affected by the provisions
33 of this section, except as provided in subsection D.

34 D. Individuals, irrigation districts, corporations, state departments,
35 agencies, boards, commissions and political subdivisions of the state shall
36 cooperate, confer with and obtain the advice of the director as to those
37 negotiations, contracts and subcontracts described in subsection C that
38 affect the allocation and use of main stream Colorado river water or the
39 allocation and use of Colorado river water delivered through the central
40 Arizona project. For a proposed contract or subcontract or a proposed
41 amendment of a contract or subcontract that will result in a transfer of an
42 allocation or entitlement of Colorado river water, including central Arizona
43 project water, from a non-Indian Arizona contractor or subcontractor for a
44 term of more than one year, the obligation to cooperate, confer with and

1 obtain the advice of the director shall include the obligation to submit to
2 the director for review the proposed contract or subcontract or the proposed
3 amendment, and all related exhibits and agreements, prior to its execution
4 by the contractor or subcontractor.

5 Sec. 3. Section 45-421, Arizona Revised Statutes, is amended to read:
6 45-421. Administrative duties of the groundwater users advisory
7 councils

8 The groundwater users advisory council shall:

9 1. Advise the area director for the active management area, make
10 recommendations on groundwater management programs and policies for the
11 active management area and comment to the area director and to the director
12 on draft management plans for the active management area before they are
13 promulgated by the director.

14 2. Keep the minutes of its meetings and all records, reports and other
15 information relative to its work and programs in permanent form indexed and
16 systematically filed.

17 3. Elect from its members a chairman and vice-chairman for terms of
18 two years expiring on the third Monday of January of each even numbered year.

19 4. Designate the person or persons who shall execute all documents and
20 instruments on behalf of the council.

21 5. Manifest and record its actions by motion, resolution or other
22 appropriate means.

23 6. Make a complete record of its proceedings which shall be open to
24 public inspection during regular business hours in the branch office of the
25 department in the active management area.

26 7. PROVIDE COMMENT TO THE ARIZONA WATER BANKING AUTHORITY WITH REGARD
27 TO DRAFT PLANS FOR ADDITIONAL STORAGE FACILITIES AND DRAFT PLANS OF OPERATION
28 IN ACCORDANCE WITH SECTIONS 45-2453 AND 45-2456.

29 Sec. 4. Section 45-566, Arizona Revised Statutes, is amended to read:
30 45-566. Management plan for third management period: guidelines

31 A. For the third management period, 2000 to 2010, the director shall
32 promulgate a management plan for each initial active management area not
33 later than January 1, 1998. The director:

34 1. Except as provided in section 45-411.01, subsection A and section
35 45-563.02, subsection B, shall establish in each plan a new irrigation water
36 duty for each farm unit to be reached by the end of the third management
37 period and may establish one or more intermediate water duties to be reached
38 at specified intervals during the third management period. Except as
39 provided in subsection D of this section, the irrigation water duty or
40 intermediate water duties for the third management period shall be calculated
41 as the quantity of water reasonably required to irrigate the crops
42 historically grown in the farm unit and shall assume the maximum conservation
43 consistent with prudent long-term farm management practices within areas of
44 similar farming conditions, considering the time required to amortize

1 conservation investments and financing costs. After computing the irrigation
2 water duty or intermediate water duties for the third management period, the
3 director may adjust the highest twenty-five per cent of the water duties
4 within an area of similar farming conditions by reducing each water duty in
5 an amount up to ten per cent, except that in making the adjustment, no water
6 duty may be reduced to an amount less than the highest water duty within the
7 lowest seventy-five per cent of the water duties computed within the area of
8 similar farming conditions for the third management period.

9 2. Shall establish in each plan, except the plan for the Santa Cruz
10 active management area, additional conservation requirements for all
11 non-irrigation uses of groundwater to be achieved by the end of the third
12 management period and may establish intermediate conservation requirements
13 to be achieved at specified intervals during the third management period.
14 In the plan for the Santa Cruz active management area, the director shall
15 establish additional conservation requirements for all non-irrigation uses
16 of water, other than stored water, withdrawn from a well to be achieved by
17 the end of the third management period and may establish intermediate
18 conservation requirements to be achieved at specified intervals during the
19 third management period. For municipal uses, except as provided in section
20 45-565.01 and paragraphs 3 and 4 of this subsection, the program in each plan
21 shall require additional reasonable reductions in per capita use to those
22 required in the second management period and use of such other conservation
23 measures as may be appropriate for individual users. For industrial uses
24 including industrial uses within the exterior boundaries of the service area
25 of a city, town, private water company or irrigation district, the program
26 in each plan shall require the use of or establish conservation requirements
27 based on the use of the latest commercially available conservation technology
28 consistent with reasonable economic return.

29 3. Shall establish in each plan conservation or rate of use
30 requirements for deliveries of untreated water by large untreated water
31 providers based on the use of the latest commercially available conservation
32 technology consistent with reasonable economic return.

33 4. Shall establish in each plan reasonable conservation requirements
34 for small municipal providers.

35 5. Except as provided in section 45-411.01, subsection B, shall
36 establish in each plan, except the plan for the Santa Cruz active management
37 area, additional economically reasonable conservation requirements for the
38 distribution of groundwater by cities, towns, private water companies and
39 irrigation districts within their service areas. In the plan for the Santa
40 Cruz active management area, the director shall establish additional
41 economically reasonable conservation requirements for the distribution of
42 water, other than stored water, withdrawn from wells, for cities, towns,
43 private water companies and irrigation districts within their service areas.

1 6. Shall include in each plan a program for additional augmentation
2 of the water supply of the active management area, if feasible, including
3 incentives for artificial groundwater recharge.

4 7. Shall, in cooperation with the department of environmental quality,
5 include in each plan an assessment of groundwater quality in the active
6 management area and any proposed program for groundwater quality protection.
7 Any such program shall be submitted to the legislature for any necessary
8 enabling legislation or coordination with existing programs of the department
9 of environmental quality.

10 8. Shall include in each plan a program for conservation assistance
11 to water users within the active management area.

12 9. May include in each plan a program for the purchase and retirement
13 of grandfathered rights by the department to begin no earlier than
14 January 1, 2006.

15 10. Shall establish in the plan for an active management area in which
16 a groundwater replenishment district is located the historic annual net
17 natural recharge for the groundwater replenishment district, computed by
18 determining the net natural recharge, as defined by section 48-4401, for the
19 groundwater basin beneath the district during calendar years 1967 through
20 1996 and dividing the result by thirty.

21 11. Shall include in the plan for the Santa Cruz active management area
22 criteria for the location of new wells and replacement wells in new locations
23 consistent with the management goal of the active management area.

24 12. Shall include in the plan for the Santa Cruz active management area
25 an evaluation of the potential impact of the plan on the Tucson active
26 management area.

27 13. SHALL INCLUDE IN THE PLANS FOR THE TUCSON, PHOENIX AND PINAL ACTIVE
28 MANAGEMENT AREAS RECOMMENDATIONS TO THE ARIZONA WATER BANKING AUTHORITY
29 REGARDING ALL OF THE FOLLOWING:

30 (a) WHETHER ADDITIONAL WATER STORAGE IN THE ACTIVE MANAGEMENT AREA
31 WOULD HELP TO ACHIEVE THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA.

32 (b) WHERE ADDITIONAL WATER STORAGE IN THE ACTIVE MANAGEMENT AREA WOULD
33 BE MOST USEFUL TO ACHIEVE THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA.

34 (c) WHETHER EXTINGUISHMENT OF LONG-TERM STORAGE CREDITS ACCRUED OR TO
35 BE ACCRUED BY THE ARIZONA WATER BANKING AUTHORITY WOULD HELP TO ACHIEVE THE
36 MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA.

37 B. Within thirty days after the management plan for the third
38 management period is adopted, the director shall give written notice in the
39 manner and to the persons prescribed in section 45-565, subsection B. Two
40 years before the compliance date specified in the management plan for any
41 irrigation water duty, intermediate water duty, conservation requirement or
42 intermediate conservation requirement, the director shall give additional
43 written notice by first class mail to the last known addresses of the persons
44 prescribed in section 45-565, subsection B.

1 C. Except for a person who has obtained a variance under section
2 45-574 or who is exempt from irrigation water duties under section 45-563.02,
3 subsection A, all persons notified pursuant to subsection B of this section
4 shall comply with the applicable irrigation water duty or conservation
5 requirements for the third management period not later than January 1, 2010
6 and shall remain in compliance until the compliance date for any applicable
7 irrigation water duty or conservation requirements established in the
8 management plan for the fourth management period. If intermediate water
9 duties or intermediate conservation requirements have been established, a
10 person to whom those water duties or conservation requirements apply shall
11 comply with the intermediate water duties or conservation requirements not
12 later than the compliance date specified in the management plan unless the
13 person obtains a variance pursuant to section 45-574 or is exempt from
14 intermediate water duties under section 45-563.02, subsection A. A person
15 who obtains a variance under section 45-574 shall comply with the applicable
16 irrigation water duty or conservation requirements by the date specified in
17 the variance and shall remain in compliance until the subsequent compliance
18 date for any applicable irrigation water duty or conservation requirements
19 established in the management plan for the third management period or, if
20 that management plan does not establish any applicable subsequent compliance
21 date, until the applicable compliance date established in the management plan
22 for the fourth management period.

23 D. A person who is entitled to use groundwater pursuant to an
24 irrigation grandfathered right may apply to the director at any time during
25 the management period for an exemption from the irrigation water duties
26 established pursuant to subsection A, paragraph 1 of this section. The
27 director shall grant the exemption if the person demonstrates to the
28 director's satisfaction that granting the exemption is consistent with
29 achieving the management goal of the active management area and that one of
30 the following applies:

31 1. Withdrawal of groundwater pursuant to the irrigation grandfathered
32 right during the management period will intercept the groundwater that would
33 otherwise flow out of and be lost to the active management area within the
34 next fifteen years without entering another active management area.

35 2. Withdrawal of groundwater pursuant to the irrigation grandfathered
36 right during the management period will prevent encroachment of a rising
37 depth to groundwater level that will cause waterlogging problems within the
38 next fifteen years.

1 Sec. 5. Section 45-567, Arizona Revised Statutes, is amended to read:
2 45-567. Management plan for fourth management period:
3 guidelines

4 A. For the fourth management period, 2010 to 2020, the director shall
5 promulgate a management plan for each initial active management area not
6 later than January 1, 2008. The director:

7 1. Except as provided in section 45-563.02, subsection B, shall
8 include in each plan a new irrigation water duty or intermediate water duties
9 which duties shall be subject to an exemption under subsection E of this
10 section. In setting the irrigation water duty or intermediate water duties
11 for the fourth management period, the director may adjust the highest
12 twenty-five per cent of the final irrigation water duties established within
13 an area of similar farming conditions pursuant to section 45-566 by reducing
14 each water duty in an amount up to ten per cent, except that, in making the
15 adjustment, no water duty may be reduced to an amount less than the highest
16 water duty within the lowest seventy-five per cent of the water duties within
17 the area of similar farming conditions for the fourth management period.

18 2. May include in each plan, if feasible, additional conservation
19 requirements for non-irrigation uses and intermediate conservation
20 requirements which shall apply subject to the provisions of section
21 45-567.01.

22 3. May include in each plan, if feasible, conservation or rate of use
23 requirements for deliveries of untreated water by large untreated water
24 providers based on the use of the latest commercially available conservation
25 technology consistent with reasonable economic return.

26 4. May include in each plan, except the plan for the Santa Cruz active
27 management area, if feasible, additional economically reasonable conservation
28 requirements for the distribution of groundwater by cities, towns, private
29 water companies and irrigation districts within their service areas. In the
30 plan for the Santa Cruz active management area, the director may include, if
31 feasible, additional economically reasonable conservation requirements for
32 the distribution of water, other than stored water, withdrawn from wells, for
33 cities, towns, private water companies and irrigation districts within their
34 service areas.

35 5. May include in each plan, if feasible, a program for additional
36 augmentation of the water supply of the active management area including
37 incentives for artificial groundwater recharge.

38 6. May include in each plan, if feasible, in cooperation with the
39 department of environmental quality, an assessment of groundwater quality in
40 the active management area and any proposed program for groundwater quality
41 protection. Any such program shall be submitted to the legislature for any
42 necessary enabling legislation or coordination with existing programs of the
43 department of environmental quality.

1 7. May include in each plan, if feasible, a program for conservation
2 assistance to water users within the active management area.

3 8. May include in each plan, if feasible, a program for purchase and
4 retirement of grandfathered rights by the department.

5 9. Shall include in the plan for the Santa Cruz active management area
6 criteria for the location of new wells and replacement wells in new locations
7 consistent with the management goal of the active management area.

8 10. Shall include in the plan for the Santa Cruz active management area
9 an evaluation of the potential impact of the plan on the Tucson active
10 management area.

11 11. SHALL INCLUDE IN THE PLANS FOR THE TUCSON, PHOENIX AND PINAL ACTIVE
12 MANAGEMENT AREAS RECOMMENDATIONS TO THE ARIZONA WATER BANKING AUTHORITY
13 REGARDING ALL OF THE FOLLOWING:

14 (a) WHETHER ADDITIONAL WATER STORAGE IN THE ACTIVE MANAGEMENT AREA
15 WOULD HELP TO ACHIEVE THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA.

16 (b) WHERE ADDITIONAL WATER STORAGE IN THE ACTIVE MANAGEMENT AREA WOULD
17 BE MOST USEFUL TO ACHIEVE THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA.

18 (c) WHETHER EXTINGUISHMENT OF LONG-TERM STORAGE CREDITS ACCRUED OR TO
19 BE ACCRUED BY THE ARIZONA WATER BANKING AUTHORITY WOULD HELP TO ACHIEVE THE
20 MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA.

21 B. In the plans adopted under subsection A of this section, the
22 director shall establish the historic annual net natural recharge for any
23 groundwater replenishment district in the active management area, computed
24 by determining the net natural recharge, as defined by section 48-4401, for
25 the groundwater basin beneath the district during calendar years 1977 through
26 2006 and dividing the result by thirty.

27 C. Within thirty days after the management plan for the fourth
28 management period is adopted, the director shall give written notice in the
29 manner and to the persons prescribed in section 45-565, subsection B. Two
30 years before the compliance date specified in the management plan for any
31 irrigation water duty, intermediate water duty, conservation requirement or
32 intermediate conservation requirement, the director shall give additional
33 written notice by first class mail to the last known addresses of the persons
34 prescribed in section 45-565, subsection B.

35 D. Except for a person who obtains a variance under section 45-574 or
36 who is exempt from irrigation water duties under section 45-563.02,
37 subsection A, all persons notified pursuant to subsection C of this section
38 shall comply with the applicable irrigation water duty or conservation
39 requirements for the fourth management period not later than January 1, 2020
40 and shall remain in compliance until the compliance date for any applicable
41 irrigation water duty or conservation requirements established in the
42 management plan for the fifth management period. If intermediate water
43 duties or intermediate conservation requirements have been established, a
44 person to whom those water duties or conservation requirements apply shall

1 comply with the intermediate water duties or intermediate conservation
2 requirements not later than the compliance date specified in the management
3 plan, unless the person obtains a variance pursuant to section 45-574 or is
4 exempt from intermediate water duties under section 45-563.02, subsection A.
5 A person who obtains a variance under section 45-574 shall comply with the
6 applicable irrigation water duty or conservation requirements by the date
7 specified in the variance and shall remain in compliance until the subsequent
8 compliance date for any applicable irrigation water duty or conservation
9 requirements established in the management plan for the fourth management
10 period or, if that management plan does not establish any applicable
11 subsequent compliance date, until the applicable compliance date established
12 in the management plan for the fifth management period.

13 E. A person who is entitled to use groundwater pursuant to an
14 irrigation grandfathered right may apply to the director at any time during
15 the fourth management period for an exemption from the irrigation water
16 duties established under subsection A, paragraph 1 of this section. The
17 director shall grant the exemption if the person demonstrates to the
18 director's satisfaction that granting the exemption is consistent with
19 achieving the management goal of the active management area and that one of
20 the following applies:

21 1. Withdrawal of groundwater pursuant to the irrigation grandfathered
22 right during the management period will intercept groundwater that would
23 otherwise flow out of and be lost to the active management area within the
24 next fifteen years without entering another active management area.

25 2. Withdrawal of groundwater pursuant to the irrigation grandfathered
26 right during the management period will prevent encroachment of a rising
27 depth to groundwater level that will cause waterlogging problems within the
28 next fifteen years.

29 Sec. 6. Section 45-611, Arizona Revised Statutes, is amended to read:

30 45-611. Groundwater withdrawal fee; amounts and purposes of
31 fee; exception

32 A. Except as provided in section 45-411.01, subsection C and
33 subsection B of this section and except for the TUCSON, PHOENIX, PINAL AND
34 Santa Cruz active management ~~area~~ AREAS, the director shall levy and collect
35 an annual groundwater withdrawal fee from each person withdrawing groundwater
36 in an active management area or the person who owns the right to withdraw the
37 groundwater, in an amount not to exceed five dollars per acre-foot of
38 groundwater withdrawn and beneficially used. In the Santa Cruz active
39 management area, the director shall levy and collect an annual withdrawal fee
40 from persons who withdraw water, other than stored water, from a well in an
41 amount not to exceed five dollars per acre-foot of water, other than stored
42 water, that is withdrawn and beneficially used. For purposes of this
43 article, the annual withdrawal fee levied and collected in the Santa Cruz

1 active management area shall be considered a groundwater withdrawal fee. The
2 actual amount of the fee shall be set by the director as follows:

3 1. For administration and enforcement of this chapter, an amount not
4 less than fifty cents and not greater than one dollar per acre-foot per year.
5 The initial fee for administration and enforcement shall be levied as soon
6 as practicable after the active management area is established.

7 2. For augmentation of the water supply of the active management area
8 and conservation assistance to water users within the active management area,
9 an amount not greater than two dollars per acre-foot per year. If a
10 permanent board of directors of an active management area water district
11 assumes office under section 48-4831, the fee for augmentation under this
12 paragraph shall not be levied in that active management area.

13 3. For purchasing and retiring grandfathered rights, an amount not
14 greater than two dollars per acre-foot per year. The initial fee for
15 purchasing and retiring grandfathered rights shall be levied in the first
16 year in which the director develops and implements a program for the purchase
17 and retirement of grandfathered rights as part of the management plan for the
18 active management area, but not earlier than January 1, 2006. The director
19 may not levy a fee under this paragraph on a district member of a groundwater
20 replenishment district that withdraws groundwater in the district for a
21 non-irrigation use in the district.

22 B. A person, other than an irrigation district, who withdraws
23 groundwater in an active management area from a non-exempt well for use
24 pursuant to an irrigation grandfathered right that is appurtenant to ten or
25 fewer irrigation acres and the person who owns the right to withdraw the
26 groundwater are exempt from the groundwater withdrawal fee requirements of
27 ~~subsection~~ SUBSECTIONS A AND C of this section for those withdrawals unless
28 the irrigation acres are part of an integrated farming operation.

29 C. EXCEPT AS PROVIDED IN SECTION 45-411.01, SUBSECTION C AND
30 SUBSECTION B OF THIS SECTION, THE DIRECTOR SHALL LEVY AND COLLECT AN ANNUAL
31 GROUNDWATER WITHDRAWAL FEE FROM EACH PERSON WHO WITHDRAWS GROUNDWATER IN THE
32 TUCSON, PHOENIX AND PINAL ACTIVE MANAGEMENT AREAS OR THE PERSON WHO OWNS THE
33 RIGHT TO WITHDRAW THE GROUNDWATER, IN AN AMOUNT OF NOT MORE THAN FIVE DOLLARS
34 PER ACRE-FOOT OF GROUNDWATER WITHDRAWN AND BENEFICIALLY USED. THE DIRECTOR
35 SHALL SET THE ACTUAL AMOUNT OF THE FEE AS FOLLOWS:

36 1. BEGINNING IN 2017, FOR ADMINISTRATION AND ENFORCEMENT OF THIS
37 CHAPTER, AN AMOUNT OF AT LEAST FIFTY CENTS BUT NOT MORE THAN ONE DOLLAR PER
38 ACRE-FOOT PER YEAR.

39 2. THROUGH 2016, FOR AUGMENTATION OF THE WATER SUPPLY OF THE ACTIVE
40 MANAGEMENT AREA AND CONSERVATION ASSISTANCE TO WATER USERS WITHIN THE ACTIVE
41 MANAGEMENT AREA, AN AMOUNT OF NOT MORE THAN FIFTY CENTS PER ACRE-FOOT PER
42 YEAR, AND AFTER 2016, AN AMOUNT OF NOT MORE THAN TWO DOLLARS PER ACRE-FOOT
43 PER YEAR.

1 3. THROUGH 2016, FOR ARIZONA WATER BANKING PURPOSES, THE AMOUNT OF TWO
2 DOLLARS FIFTY CENTS PER ACRE-FOOT PER YEAR EXCEPT THAT FOR GROUNDWATER
3 WITHDRAWN PURSUANT TO IRRIGATION GRANDFATHERED RIGHTS WITHIN THE PINAL ACTIVE
4 MANAGEMENT AREA TO THE EXTENT THOSE RIGHTS ARE USED TO IRRIGATE LANDS OUTSIDE
5 OF THE SERVICE AREA OF AN IRRIGATION DISTRICT, THE AMOUNT OF SEVENTY-FIVE
6 CENTS PER ACRE FOOT OF GROUNDWATER WITHDRAWN IN 1997, AND A CUMULATING
7 ADDITIONAL TWENTY-FIVE CENTS PER ACRE FOOT EACH YEAR THEREAFTER, TO A MAXIMUM
8 OF TWO DOLLARS FIFTY CENTS PER ACRE FOOT PER YEAR.

9 4. FOR PURCHASING AND RETIRING GRANDFATHERED RIGHTS, AN AMOUNT OF NOT
10 MORE THAN TWO DOLLARS PER ACRE-FOOT PER YEAR. THE INITIAL FEE FOR PURCHASING
11 AND RETIRING GRANDFATHERED RIGHTS SHALL BE LEVIED IN THE FIRST YEAR IN WHICH
12 THE DIRECTOR DEVELOPS AND IMPLEMENTS A PROGRAM FOR THE PURCHASE AND
13 RETIREMENT OF GRANDFATHERED RIGHTS AS PART OF THE MANAGEMENT PLAN FOR THE
14 ACTIVE MANAGEMENT AREA, BUT NOT EARLIER THAN JANUARY 1, 2006. THE DIRECTOR
15 MAY NOT LEVY A FEE PURSUANT TO THIS PARAGRAPH ON A DISTRICT MEMBER OF A
16 GROUNDWATER REPLENISHMENT DISTRICT THAT WITHDRAWS GROUNDWATER IN THE DISTRICT
17 FOR NON-IRRIGATION USE IN THE DISTRICT.

18 Sec. 7. Section 45-612, Arizona Revised Statutes, is amended to read:

19 45-612. Administration and enforcement withdrawal fee;
20 exemption from lapsing; disposition of excess monies

21 A. Each year the legislature shall appropriate sufficient monies to
22 the department to cover all costs of administration and enforcement of this
23 chapter.

24 B. Not later than October 1 of each year, the director shall estimate
25 the total amount of groundwater to be withdrawn in all active management
26 areas except the TUCSON, PHOENIX, PINAL AND Santa Cruz active management ~~area~~
27 AREAS during the following calendar year and the total amount of water, other
28 than stored water, to be withdrawn in the Santa Cruz active management area
29 during the following calendar year, and set the administration and
30 enforcement fee pursuant to section 45-611, subsection A, paragraph 1 to
31 produce an amount equal to one-half of the amount budgeted by the director
32 for administration and enforcement purposes for the following fiscal year.
33 In setting the administration and enforcement fee, the director shall account
34 for excess payments or deficiencies in payments in the past fiscal year.
35 Except as provided in section 45-113, monies collected from administration
36 and enforcement fees shall be deposited in the state general fund.

37 C. FOR THE TUCSON, PHOENIX AND PINAL ACTIVE MANAGEMENT AREAS, NOT
38 LATER THAN OCTOBER 1, 2016 AND BY OCTOBER 1 OF EACH YEAR THEREAFTER, THE
39 DIRECTOR SHALL ESTIMATE THE TOTAL AMOUNT OF GROUNDWATER TO BE WITHDRAWN IN
40 EACH ACTIVE MANAGEMENT AREA AND SHALL SET THE ADMINISTRATION AND ENFORCEMENT
41 FEE PURSUANT TO SECTION 45-611, SUBSECTION C, PARAGRAPH 1 TO PRODUCE AN
42 AMOUNT EQUAL TO ONE-HALF OF THE AMOUNT BUDGETED BY THE DIRECTOR FOR
43 ADMINISTRATION AND ENFORCEMENT PURPOSES FOR THE FOLLOWING FISCAL YEAR. IN
44 SETTING THE ADMINISTRATION AND ENFORCEMENT FEE, THE DIRECTOR SHALL ACCOUNT

1 FOR EXCESS PAYMENTS OR DEFICIENCIES IN PAYMENTS IN THE PAST FISCAL YEAR.
2 EXCEPT AS PROVIDED IN SECTION 45-113, MONIES COLLECTED FROM ADMINISTRATION
3 AND ENFORCEMENT FEES SHALL BE DEPOSITED IN THE STATE GENERAL FUND.

4 ~~E.~~ D. Monies budgeted for administration and enforcement purposes
5 pursuant to this section are exempt from lapsing under section 35-190. If
6 the administration and enforcement fee is set at fifty cents and excess
7 payments have been received, such excess payments shall be credited to the
8 augmentation and conservation assistance fund established under section
9 45-615 and credited among the active management areas in proportion to the
10 amount of such monies collected from each active management area.

11 Sec. 8. Section 45-613, Arizona Revised Statutes, is amended to read:

12 45-613. Use of withdrawal fees collected for augmentation and
13 conservation and purchase and retirement of
14 grandfathered rights

15 Monies collected for purposes of augmentation and conservation
16 assistance, ARIZONA WATER BANKING and purchase and retirement of
17 grandfathered rights under section 45-611, subsection A, paragraphs 2 and 3
18 AND SUBSECTION C, PARAGRAPHS 2, 3 AND 4 shall be used to finance programs
19 only for the benefit of the active management area in which they are
20 collected.

21 Sec. 9. Section 45-614, Arizona Revised Statutes, is amended to read:

22 45-614. Setting groundwater withdrawal fee; statement entered
23 in record; statement transmitted to state treasurer;
24 notice; payment; penalty

25 A. The director, not later than October 1 each year, shall set the
26 groundwater withdrawal fee for each active management area for the following
27 calendar year. In setting the fee, the director shall COMPLY WITH THE
28 REQUIREMENTS OF SECTION 45-611, SUBSECTION C AND SHALL consider, among other
29 things:

30 1. The estimated financial requirements for the next fiscal year.

31 2. The estimated amount of groundwater which will be withdrawn in the
32 active management areas, except the Santa Cruz active management area, in the
33 next calendar year.

34 3. The estimated amount of water, other than stored water, that will
35 be withdrawn from wells in the Santa Cruz active management area in the next
36 calendar year.

37 4. The amount of monies collected from groundwater withdrawal fees in
38 the preceding calendar year.

39 5. Any monies expected to be available for use from the groundwater
40 enforcement fund.

41 B. The director shall enter in the records of the department a
42 statement of the estimated financial requirements for the next fiscal year
43 and a statement of the groundwater withdrawal fees for each active management
44 area for the next calendar year, itemized to show the amounts to be levied

1 for administration and enforcement, augmentation and conservation assistance,
2 ARIZONA WATER BANKING and purchase and retirement of grandfathered rights.
3 The director shall transmit to the state treasurer a copy of the itemized
4 statement of the groundwater withdrawal fees.

5 C. Within thirty days after the director sets the groundwater
6 withdrawal fees for the next calendar year, the director shall give notice
7 of the fees by:

8 1. Giving written notice to the clerk of the board of supervisors of
9 the county or counties in which the active management area is located and to
10 the mayor of each city or town, to each private water company and to the
11 presiding officer of each political subdivision established pursuant to title
12 48, chapter 17, 18, 19 or 20 and located in the active management area.

13 2. Written notice to all holders of groundwater withdrawal permits in
14 the active management area.

15 D. A person who, under section 45-604, subsection B, is not required
16 to use and does not use a water measuring device to measure withdrawals made
17 pursuant to a type 2 non-irrigation grandfathered right or a groundwater
18 withdrawal permit shall pay an amount equal to the groundwater withdrawal fee
19 set by the director for the calendar year multiplied by the number of
20 acre-feet of the grandfathered right or the groundwater withdrawal permit.

21 E. The groundwater withdrawal fee shall be paid to the department at
22 the time the person withdrawing the water files a report on annual
23 withdrawals pursuant to section 45-632. If a person who is required under
24 section 45-611 to pay a groundwater withdrawal fee for calendar year 1985 or
25 any subsequent calendar year fails to pay the fee for the calendar year in
26 question on or before March 31 of the following year, the director may assess
27 and collect a penalty of ten per cent of the unpaid fee, without compounding,
28 for each month or portion of a month that the fee is delinquent. The total
29 penalty assessed under this subsection shall not exceed sixty per cent of the
30 unpaid fee. The director shall transmit all penalties collected under this
31 section to the state treasurer for deposit in the state general fund.

32 Sec. 10. Section 45-615, Arizona Revised Statutes, is amended to read:

33 45-615. Remittance of collections to state treasurer; divisions
34 of collections into funds

35 Except as provided in section 45-113, the director shall remit all
36 monies collected by the department pursuant to section 45-611, subsection A,
37 paragraphs 2 and 3 AND SUBSECTION C, PARAGRAPHS 2, 3 AND 4 and any other
38 monies received for that purpose to the state treasurer. Based on the
39 statement of the director transmitted pursuant to section 45-614, subsection
40 B, the monies collected shall be allocated as follows:

41 1. Except as provided in paragraph 2 of this section, monies received
42 for the purpose of augmentation of the water supply of the active management
43 area and conservation assistance to water users within the active management
44 area shall be kept in an augmentation and conservation assistance fund. The

1 state treasurer shall maintain within the fund separate accounts for each
2 active management area. All interest earned from the investments shall be
3 credited to the fund.

4 2. If an active management area water district has been established
5 in an active management area, all monies received pursuant to section 45-611,
6 subsection A, paragraph 2 for the purpose of augmentation of the water supply
7 of that active management area shall be transmitted to the
8 secretary-treasurer of the district for deposit in the general fund of the
9 district.

10 3. Monies received for the purpose of purchase and retirement of
11 grandfathered rights shall be kept in a purchase and retirement fund. The
12 state treasurer shall maintain within the fund separate accounts for each
13 active management area. All interest earned from the investments shall be
14 credited to the fund.

15 4. MONIES RECEIVED FOR THE PURPOSE OF ARIZONA WATER BANKING SHALL BE
16 DEPOSITED IN THE ARIZONA WATER BANKING FUND.

17 Sec. 11. Section 45-802.01, Arizona Revised Statutes, as amended by
18 Laws 1994, chapter 291, section 32, is amended to read:

19 45-802.01. Definitions

20 Unless the context otherwise requires, the terms defined in section
21 45-402 have the same meanings in this chapter and:

22 1. "Aquifer" means a geologic formation that contains sufficient
23 saturated material to be capable of storing water and transmitting water in
24 usable quantities to a well.

25 2. "Area of impact" means, as projected on the land surface, the area
26 where the stored water has migrated or is located.

27 3. "CERCLA" means the comprehensive environmental response,
28 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 stat.
29 2767; 42 United States Code sections 9601 through 9657), commonly known as
30 "superfund".

31 4. "Constructed underground storage facility" means a facility that
32 meets the requirements of section 45-811.01 and that is designed and
33 constructed to store water underground pursuant to permits issued under this
34 chapter.

35 5. "District" means a groundwater replenishment district established
36 under title 48, chapter 27.

37 6. "District member" means a member of the groundwater replenishment
38 district as provided by title 48, chapter 27.

39 7. "Electrical district" means a corporate body established pursuant
40 to title 48, chapter 12.

41 8. "Groundwater savings facility" means a facility that meets the
42 requirements of section 45-812.01 in an active management area or an
43 irrigation non-expansion area at which groundwater withdrawals are eliminated
44 or reduced by recipients who use in lieu water on a gallon-for-gallon

1 substitute basis for groundwater that otherwise would have been pumped from
2 within that active management area or irrigation non-expansion area.

3 9. "In lieu water" means water that is delivered by a storer to a
4 groundwater savings facility pursuant to permits issued under this chapter
5 and that is used in an active management area or an irrigation non-expansion
6 area by the recipient on a gallon-for-gallon substitute basis for groundwater
7 that otherwise would have been pumped from within that active management area
8 or irrigation non-expansion area.

9 10. "Long-term storage account" means an account established pursuant
10 to section 45-852.01.

11 11. "Long-term storage credit" means stored water that meets the
12 requirements of section 45-852.01 and that has been credited to a long-term
13 storage account.

14 12. "Managed underground storage facility" means a facility that meets
15 the requirements of section 45-811.01 and that is designed and managed to
16 utilize the natural channel of a stream to store water underground pursuant
17 to permits issued under this chapter through artificial and controlled
18 releases of water other than surface water naturally present in the stream.
19 Surface water flowing in its natural channel is not a managed underground
20 storage facility.

21 13. "Master replenishment account" means an account established
22 pursuant to section 45-858.01 for a groundwater replenishment district.

23 14. "Recipient" means a person who receives in lieu water for use at
24 a groundwater savings facility.

25 15. "Recoverable amount" means the amount of water, as determined by
26 the director, that will reach the aquifer through water storage.

27 16. "Replenishment" means the storage of water or use of long-term
28 storage credits by a groundwater replenishment district to fulfill its duties
29 under title 48, chapter 27, article 3, by a multi-county water conservation
30 district to fulfill its duties under title 48, chapter 22, article 4 or by
31 an active management area water district to fulfill its duties under title
32 48, chapter 28, article 7.

33 17. "Storage facility" means a groundwater savings facility or an
34 underground storage facility.

35 18. "Stored water" means water that has been stored or saved
36 underground pursuant to a storage permit issued under this chapter.

37 19. "Storer" means the holder of a water storage permit issued pursuant
38 to section 45-831.01 or a person to whom a water storage permit has been
39 conveyed pursuant to section 45-831.01, subsection F.

40 20. "Underground storage facility" means a constructed underground
41 storage facility or a managed underground storage facility.

42 21. "Water that cannot reasonably be used directly" means water that
43 the storer cannot reasonably put to a direct use during the calendar year,
44 including:

1 (a) The amount of central Arizona project water that exceeds a
2 straight line between the following:

3 (i) The lesser of thirty per cent of the amount of central Arizona
4 project water for which the storer has signed a central Arizona project water
5 service subcontract or a reasonable percentage as determined by the director
6 between seventy-five and one hundred per cent of the storer's total
7 groundwater demand beginning the first year that central Arizona project
8 water is available to the storer pursuant to an interim water contract for
9 delivery of central Arizona project water on a noninterruptible basis.

10 (ii) One hundred per cent of the amount of central Arizona project
11 water for which the storer has signed a central Arizona project water service
12 subcontract ending in the thirtieth year after central Arizona project water
13 is available to the storer pursuant to an interim water contract for delivery
14 of central Arizona project water on a noninterruptible basis.

15 (b) Surface water made available by dams constructed or modified after
16 August 13, 1986.

17 (c) Until the year 2025:

18 (i) Effluent.

19 (ii) If the storage facility is in an active management area, water
20 from outside the active management area that would not have reached the
21 active management area without the efforts of the storer.

22 (iii) If the storage facility is outside of an active management area,
23 water from outside the groundwater basin in which the storage facility is
24 located that would not have reached the groundwater basin without the efforts
25 of the storer.

26 (d) The amount of central Arizona project water for which all persons
27 who signed central Arizona project water service subcontracts refused to
28 accept delivery and that the storer demonstrates exceeds the storer's
29 treatment plant capacity and water demands.

30 (e) WATER DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT THAT IS
31 ACQUIRED BY THE ARIZONA WATER BANKING AUTHORITY.

32 22. "Water storage" means adding water to an aquifer or saving water
33 in an aquifer pursuant to permits issued under this chapter.

34 23. "Water storage permit" means a permit issued pursuant to section
35 45-831.01 to store water at a storage facility.

36 Sec. 12. Section 45-802.01, Arizona Revised Statutes, as amended by
37 Laws 1994, chapter 291, section 33, is amended to read:

38 45-802.01. Definitions

39 Unless the context otherwise requires, the terms defined in section
40 45-402 have the same meanings in this chapter and:

41 1. "Aquifer" means a geologic formation that contains sufficient
42 saturated material to be capable of storing water and transmitting water in
43 usable quantities to a well.

1 2. "Area of impact" means, as projected on the land surface, the area
2 where the stored water has migrated or is located.

3 3. "CERCLA" means the comprehensive environmental response,
4 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
5 2767; 42 United States Code sections 9601 through 9657), commonly known as
6 "superfund".

7 4. "Constructed underground storage facility" means a facility that
8 meets the requirements of section 45-811.01 and that is designed and
9 constructed to store water underground pursuant to permits issued under this
10 chapter.

11 5. "District" means a groundwater replenishment district established
12 under title 48, chapter 27.

13 6. "District member" means a member of the groundwater replenishment
14 district as provided by title 48, chapter 27.

15 7. "Electrical district" means a corporate body established pursuant
16 to title 48, chapter 12.

17 8. "Groundwater savings facility" means a facility that meets the
18 requirements of section 45-812.01 in an active management area or an
19 irrigation non-expansion area at which groundwater withdrawals are eliminated
20 or reduced by recipients who use in lieu water on a gallon-for-gallon
21 substitute basis for groundwater that otherwise would have been pumped from
22 within that active management area or irrigation non-expansion area.

23 9. "In lieu water" means water that is delivered by a storer to a
24 groundwater savings facility pursuant to permits issued under this chapter
25 and that is used in an active management area or an irrigation non-expansion
26 area by the recipient on a gallon-for-gallon substitute basis for groundwater
27 that otherwise would have been pumped from within that active management area
28 or irrigation non-expansion area.

29 10. "Long-term storage account" means an account established pursuant
30 to section 45-852.01.

31 11. "Long-term storage credit" means stored water that meets the
32 requirements of section 45-852.01 and that has been credited to a long-term
33 storage account.

34 12. "Managed underground storage facility" means a facility that meets
35 the requirements of section 45-811.01 and that is designed and managed to
36 utilize the natural channel of a stream to store water underground pursuant
37 to permits issued under this chapter through artificial and controlled
38 releases of water other than surface water naturally present in the stream.
39 Surface water flowing in its natural channel is not a managed underground
40 storage facility.

41 13. "Master replenishment account" means an account established
42 pursuant to section 45-858.01 for a groundwater replenishment district.

43 14. "Recipient" means a person who receives in lieu water for use at
44 a groundwater savings facility.

1 15. "Recoverable amount" means the amount of water, as determined by
2 the director, that will reach the aquifer through water storage.

3 16. "Replenishment" means the storage of water or use of long-term
4 storage credits by a groundwater replenishment district to fulfill its duties
5 under title 48, chapter 27, article 3, by a multi-county water conservation
6 district to fulfill its duties under title 48, chapter 22, article 4 or by
7 an active management area water district to fulfill its duties under title
8 48, chapter 28, article 7.

9 17. "Storage facility" means a groundwater savings facility or an
10 underground storage facility.

11 18. "Stored water" means water that has been stored or saved
12 underground pursuant to a storage permit issued under this chapter.

13 19. "Storer" means the holder of a water storage permit issued pursuant
14 to section 45-831.01 or a person to whom a water storage permit has been
15 conveyed pursuant to section 45-831.01, subsection F.

16 20. "Underground storage facility" means a constructed underground
17 storage facility or a managed underground storage facility.

18 21. "Water that cannot reasonably be used directly" means water that
19 the storer cannot reasonably put to a direct use during the calendar year,
20 including:

21 (a) Except as provided in subdivision (b) of this paragraph, if the
22 storer is a municipal provider, the amount of central Arizona project water
23 that exceeds the amount of mined groundwater withdrawn during the calendar
24 year by the storer in the active management area in which the storer's
25 service area is located. If the storer withdrew mined groundwater during a
26 calendar year in which the storer stored central Arizona project water
27 underground pursuant to the storage permit, the amount of central Arizona
28 project water stored underground during that year equal to the amount of
29 mined groundwater withdrawn from the active management area in which the
30 storer's service area is located shall not be credited to the storer's
31 long-term storage account but may be considered as being available for
32 recovery by the storer on an annual basis under section 45-851.01. In
33 calculating the amount of mined groundwater withdrawn by the storer from the
34 active management area, the director, at the request of the storer, shall
35 exclude any groundwater withdrawn, treated and delivered for direct use as
36 part of a remedial action undertaken pursuant to CERCLA or title 49, chapter
37 2, article 5. For the purposes of ~~the~~ this subdivision, "mined groundwater"
38 and "municipal provider" have the same meanings as prescribed by section
39 45-561.

40 (b) If the storer is a municipal provider that has been designated as
41 having an assured water supply pursuant to section 45-576, the amount of
42 central Arizona project water that exceeds the amount of deficit groundwater
43 withdrawn during the calendar year by the storer in the active management
44 area in which the storer's service area is located. If the storer withdrew

1 deficit groundwater during a calendar year in which the storer stored central
2 Arizona project water underground pursuant to the storage permit, the amount
3 of the central Arizona project water stored underground during that year
4 equal to the amount of deficit groundwater withdrawn from the active
5 management area in which the storer's service area is located shall not be
6 credited to the storer's long-term storage account but may be considered as
7 being available for recovery by the storer on an annual basis pursuant to
8 section 45-851.01. In calculating the amount of deficit groundwater
9 withdrawn by the storer from the active management area, the director, at the
10 request of the storer, shall exclude any groundwater withdrawn, treated and
11 delivered for direct use as part of a remedial action undertaken pursuant to
12 CERCLA or title 49, chapter 2, article 5. For the purposes of this
13 subdivision, "municipal provider" has the same meaning as prescribed by
14 section 45-561 and "deficit groundwater" means that amount of groundwater
15 withdrawn within an active management area for delivery and use within a
16 service area by a municipal provider in excess of the amount of groundwater
17 that may be withdrawn by the municipal provider consistent with the
18 achievement of the active management area's management goals as prescribed
19 by rules adopted by the director pursuant to section 45-576.

20 (c) If the storer is not a municipal provider, the amount of central
21 Arizona project water stored in an active management area that exceeds the
22 amount of groundwater withdrawn during the calendar year by the storer in
23 that active management area. If the storer withdrew groundwater in an active
24 management area during a calendar year in which the storer stored central
25 Arizona project water underground in that active management area pursuant to
26 the storage permit, the amount of central Arizona project water stored
27 underground during that year equal to the amount of groundwater withdrawn
28 from the active management area shall not be credited to the storer's
29 long-term storage account but may be considered as being available for
30 recovery by the storer on an annual basis under section 45-851.01. In
31 calculating the amount of groundwater withdrawn by the storer from the active
32 management area, the director, at the request of the storer, shall exclude
33 any groundwater withdrawn, treated and delivered for direct use as part of
34 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
35 article 5. For the purposes of this subdivision, "municipal provider" has
36 the same meaning as prescribed by section 45-561.

37 (d) Surface water made available by dams constructed or modified after
38 August 13, 1986.

39 (e) Until the year 2025:

40 (i) Effluent.

41 (ii) If the storage facility is in an active management area, water
42 from outside the active management area that would not have reached the
43 active management area without the efforts of the storer.

1 (iii) If the storage facility is outside of an active management area,
2 water from outside the groundwater basin in which the storage facility is
3 located that would not have reached the groundwater basin without the efforts
4 of the storer.

5 (f) WATER DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT THAT IS
6 ACQUIRED BY THE ARIZONA WATER BANKING AUTHORITY.

7 22. "Water storage" means adding water to an aquifer or saving water
8 in an aquifer pursuant to permits issued under this chapter.

9 23. "Water storage permit" means a permit issued pursuant to section
10 45-831.01 to store water at a storage facility.

11 Sec. 13. Section 45-852.01, Arizona Revised Statutes, is amended to
12 read:

13 45-852.01. Long-term storage accounts

14 A. The director shall establish one long-term storage account for each
15 person holding long-term storage credits. The director shall establish
16 subaccounts within the long-term storage account according to each active
17 management area, irrigation non-expansion area, groundwater basin or
18 groundwater sub-basin in which the person's stored water is located. The
19 long-term storage account shall be further subdivided by type of water, if
20 the person holds long-term storage credits for more than one type of water.

21 B. Water stored pursuant to a water storage permit at a storage
22 facility may be credited to a long-term storage account if the director
23 determines that all of the following apply:

24 1. The water that was stored was water that cannot reasonably be used
25 directly.

26 2. If the stored water was stored at a storage facility within an
27 active management area, either:

28 (a) The water would not have been naturally recharged within the
29 active management area.

30 (b) If the water was stored at a managed underground storage facility
31 that has been designated as a facility that could add value to a national
32 park, national monument or state park and the water stored is effluent, the
33 water stored is water that could have been used or disposed of by the storer
34 by means other than discharging the effluent into the stream.

35 3. The stored water was not recovered on an annual basis pursuant to
36 section 45-851.01.

37 C. The director shall credit one hundred per cent of the recoverable
38 amount of stored water that meets the requirements of subsection B of this
39 section to the storer's long-term storage account, except that:

40 1. If the water was stored at a managed underground storage facility
41 that had not been designated at the time of storage as a facility that could
42 add value to a national park, national monument or state park and the water
43 stored is effluent, the director shall credit to the storer's long-term

1 storage account fifty per cent of the recoverable amount of water that meets
2 the requirements of subsection B of this section.

3 2. If the water was stored at a groundwater savings facility and the
4 storer has not met the burden of proving that one hundred per cent of the in
5 lieu water was used on a gallon-for-gallon substitute basis for groundwater,
6 the director shall credit to the storer's long-term storage account only the
7 percentage of the in lieu water that meets the requirements of subsection B
8 of this section and that was proven to the director's satisfaction as being
9 used on a gallon-for-gallon substitute basis for groundwater.

10 D. The director shall credit a person's long-term storage account by
11 the amount of long-term storage credits assigned to that person by another
12 holder of long-term storage credits pursuant to section 45-854.01.

13 E. The director shall debit the appropriate subaccount of a person's
14 long-term storage account:

15 1. One hundred ten per cent of the amount of stored water that the
16 holder of the long-term storage credits has recovered during the calendar
17 year pursuant to the permit, except that:

18 (a) If the stored water is effluent, one hundred per cent of the
19 amount of stored water the holder of the long-term storage credits has
20 recovered during the calendar year.

21 (b) If the water was stored in an active management area and the
22 stored water is water from outside of the active management area that would
23 not have reached the active management area without the efforts of the holder
24 of the long-term storage credits, one hundred per cent of the amount of
25 stored water that the holder of the long-term storage credits has recovered
26 during the calendar year.

27 (c) If the water was stored outside of an active management area and
28 the stored water is water from outside of the groundwater basin in which the
29 water was stored that would not have reached the groundwater basin without
30 the efforts of the holder of the long-term storage credits, one hundred per
31 cent of the amount of stored water the holder of the long-term storage
32 credits has recovered during the calendar year.

33 (d) Except as provided in subdivisions (a) and (b) of this paragraph,
34 if the water was stored in an active management area and the storer of the
35 long-term storage credits recovers stored water from a well within the area
36 of impact of the stored water, one hundred five per cent of the amount of
37 stored water the holder of the long-term storage credits has recovered during
38 the calendar year.

39 2. The amount of long-term storage credits that the person has
40 assigned to another person or transferred to a master replenishment account,
41 conservation district account or water district account.

42 3. If the water was stored in an active management area, the amount
43 of water during the calendar year that migrates to a location outside the
44 active management area or to a location within the active management area

1 where it cannot be beneficially used within a reasonable period of time by
2 persons other than the storer with rights to withdraw and use groundwater.

3 4. If the water was stored outside of an active management area, the
4 amount of water during the calendar year that migrates to a location outside
5 the groundwater basin in which the storage facility is located or to a
6 location in the groundwater basin where it cannot be beneficially used within
7 a reasonable period of time by persons other than the storer with rights to
8 withdraw and use groundwater.

9 5. The amount of long-term storage credits that the storer, pursuant
10 to section 45-853.01, subsection B, has applied to offset groundwater
11 withdrawn or used in excess of the storer's per capita municipal conservation
12 requirements under the second management plan.

13 6. THE AMOUNT OF LONG-TERM STORAGE CREDITS THAT ARE HELD BY THE
14 ARIZONA WATER BANKING AUTHORITY AND THAT THE AUTHORITY HAS CHOSEN TO
15 EXTINGUISH.

16 F. To the extent the total amount of water withdrawn by a person from
17 wells designated as recovery wells pursuant to section 45-834.01 during a
18 calendar year exceeds the amount of stored water recovered by the person on
19 an annual basis pursuant to section 45-851.01 and the amount of long-term
20 storage credits recovered by the person, the excess amount of water recovered
21 shall be considered groundwater withdrawn pursuant to chapter 2 of this
22 title.

23 Sec. 14. Section 45-896.01, Arizona Revised Statutes, is amended to
24 read:

25 45-896.01. Assumption of responsibility for stored water

26 A. Notwithstanding section 45-895.01, if a groundwater replenishment
27 district is established pursuant to title 48, chapter 27 on or before July
28 1, 1996 in the Phoenix active management area:

29 1. The multi-county water conservation district and the groundwater
30 replenishment district shall share equally any water that is stored in a
31 state demonstration project in that active management area. The shares shall
32 be calculated after the director has determined the amount of stored water
33 to be reserved pursuant to paragraph 2 of this subsection.

34 2. The director shall determine the quantity of any water that is
35 stored for the benefit of municipal and industrial users that are not member
36 lands or member service areas of the multi-county water conservation district
37 and that are located in Maricopa county and the right to use that amount of
38 water is reserved to those municipal and industrial users. Those municipal
39 and industrial users may recover and use the water as otherwise provided by
40 statute or rule but shall apply to the multi-county water conservation
41 district for the use of the water.

42 3. On or before December 31, 1996, unexpended and unencumbered monies,
43 liabilities, facilities and equipment of a state demonstration project shall

1 be transferred to the multi-county water conservation district and the
2 groundwater replenishment district in equal shares.

3 B. Notwithstanding section 45-895.01, if a permanent active management
4 area water district is established pursuant to title 48, chapter 28 on or
5 before July 1, 1996 in the Tucson active management area:

6 1. The multi-county water conservation district and the active
7 management area water district shall share equally any water that is stored
8 in a state demonstration project located in that active management area. The
9 shares shall be calculated after the director has determined the amount of
10 stored water to be reserved pursuant to paragraph 2 of this subsection.

11 2. The director shall determine the quantity of any water that is
12 stored for the benefit of municipal and industrial users that are not member
13 lands or member service areas of the multi-county water conservation district
14 and that are located in Pima county and the right to use that amount of water
15 is reserved to those municipal and industrial users. Those municipal and
16 industrial users may recover and use the water as otherwise provided by
17 statute or rule but shall apply to the multi-county water conservation
18 district for the use of the water.

19 3. On or before December 31, 1996, unexpended and unencumbered monies,
20 liabilities, facilities and equipment of a state demonstration project shall
21 be transferred to the multi-county water conservation district and the active
22 management area water district in equal shares.

23 C. Notwithstanding section 45-895.01 and only to the extent that
24 subsection A or B of this section does not apply:

25 ~~1. The multi-county water conservation district shall assume~~
26 ~~responsibility for water that is stored in a state demonstration project~~
27 ~~located in the district beginning on July 1, 1996. The stored water may be~~
28 ~~recovered in accordance with this chapter and used for any lawful purpose of~~
29 ~~the district.~~

30 ~~2. Not later than December 31, 1996, unexpended and unencumbered~~
31 ~~monies, liabilities, facilities and equipment of a state demonstration~~
32 ~~project located in the district and unexpended and unencumbered monies in the~~
33 ~~state water storage fund established by section 45-897.01 shall be~~
34 ~~transferred to the multi-county water conservation district.~~

35 ~~3. On the transfer prescribed by paragraph 1 of this subsection, the~~
36 ~~director shall determine the quantity of any water that is stored pursuant~~
37 ~~to this article for the benefit of municipal and industrial users that are~~
38 ~~located in Maricopa or Pima county but that are not member lands or member~~
39 ~~service areas of the multi-county water conservation district. The right to~~
40 ~~use that quantity of water is reserved for the benefit of those municipal and~~
41 ~~industrial users. Municipal and industrial users may recover and use the~~
42 ~~water as otherwise provided by statute or rule and shall apply to the~~
43 ~~multi-county water conservation district for the right to use that water.~~

1 users within the active management area pursuant to section 45-611,
2 subsection A, paragraph 2 and section 45-615, paragraph 1.

3 ~~B. Beginning in the year the authority is formed, and in each year~~
4 ~~thereafter on or before June 15, the state treasurer shall transfer to the~~
5 ~~secretary treasurer of the authority one half of all unencumbered monies~~
6 ~~collected in that year for the purposes of augmentation of the water supply~~
7 ~~of the active management area and conservation assistance to water users~~
8 ~~within the active management area pursuant to section 45-611, subsection A,~~
9 ~~paragraph 2 and section 45-615, paragraph 1.~~

10 B. EACH YEAR THE DIRECTOR SHALL SUBMIT A REQUEST TO THE STATE
11 TREASURER TO TRANSFER AN AMOUNT OF NOT MORE THAN TWO HUNDRED THOUSAND DOLLARS
12 TO THE SECRETARY-TREASURER OF THE AUTHORITY FROM THE MONIES COLLECTED IN THE
13 ACTIVE MANAGEMENT AREA IN WHICH THE AUTHORITY IS LOCATED IN THAT YEAR
14 PURSUANT TO SECTION 45-611, SUBSECTION C, PARAGRAPHS 2 AND 3. THE DIRECTOR
15 SHALL SPECIFY THE AMOUNT FROM EACH FUNDING SOURCE TO BE TRANSFERRED. ON
16 RECEIPT OF THE DIRECTOR'S REQUEST AS PRESCRIBED BY THIS SUBSECTION, THE STATE
17 TREASURER SHALL TRANSFER THE MONIES REQUESTED.

18 C. The secretary-treasurer shall deposit the transferred monies in the
19 general fund of the authority, and the authority may spend the monies to
20 carry out the purposes of this chapter.

21 Sec. 16. Title 45, Arizona Revised Statutes, is amended by adding
22 chapter 14, to read:

23 CHAPTER 14

24 ARIZONA WATER BANKING AUTHORITY

25 ARTICLE 1. GENERAL PROVISIONS

26 45-2401. Declaration of policy and purpose

27 A. THE LEGISLATURE FINDS THAT THIS STATE IS CURRENTLY AND TEMPORARILY
28 UNDERUTILIZING BOTH THE ENTITLEMENT TO COLORADO RIVER WATER CONFIRMED TO IT
29 BY THE UNITED STATES SUPREME COURT IN ARIZONA v. CALIFORNIA, 373 U.S. 546
30 (1963), AND THE CENTRAL ARIZONA PROJECT, WHICH HAS THE CAPACITY TO DIVERT
31 INTO THIS STATE A SIGNIFICANT PORTION OF THIS STATE'S ENTITLEMENT TO COLORADO
32 RIVER WATER. THE LEGISLATURE FURTHER FINDS THAT, DUE TO THE LOW PRIORITY ON
33 THE COLORADO RIVER OF THE CENTRAL ARIZONA PROJECT AND OTHER ARIZONA COLORADO
34 RIVER WATER USERS, THE SUSCEPTIBILITY OF THIS STATE TO FUTURE SHORTAGES OF
35 WATER ON THE COLORADO RIVER IS A THREAT TO THE GENERAL ECONOMY AND WELFARE
36 OF THIS STATE AND ITS CITIZENS.

37 B. THE LEGISLATURE FURTHER FINDS THAT FUTURE WATER NEEDS IN THE STATES
38 OF CALIFORNIA AND NEVADA COULD EXCEED THE ENTITLEMENTS OF THOSE STATES TO
39 COLORADO RIVER WATER. THOSE FUTURE WATER NEEDS COULD THEREBY AFFECT THE
40 GENERAL ECONOMY AND WELFARE OF THIS STATE AND ITS CITIZENS BECAUSE OF THE
41 CLOSE ECONOMIC TIES AMONG ARIZONA, CALIFORNIA AND NEVADA.

42 C. THE LEGISLATURE FURTHER FINDS THAT FOR THE PURPOSES OF THIS CHAPTER
43 DIVERTING COLORADO RIVER WATER FOR STORAGE OFF OF THE COLORADO RIVER SYSTEM
44 IS A CONSUMPTIVE USE OF THAT WATER.

1 D. THE LEGISLATURE FURTHER FINDS THAT WATER BANKING IS COMPLIMENTARY
2 AND COMPATIBLE WITH EXISTING WATER MANAGEMENT EFFORTS. THE ARIZONA WATER
3 BANKING AUTHORITY WILL COMPLIMENT AND ASSIST THE ACTIVITIES OF THE CENTRAL
4 ARIZONA WATER CONSERVATION DISTRICT IN ITS MISSION TO PROVIDE A DEPENDABLE
5 AND COST EFFECTIVE WATER SUPPLY.

6 E. THE LEGISLATURE THEREFORE FINDS THAT IT IS IN THE BEST INTEREST OF
7 THE GENERAL ECONOMY AND WELFARE OF THIS STATE AND ITS CITIZENS TO:

8 1. USE THE CENTRAL ARIZONA PROJECT TO STORE OTHERWISE UNUSED ARIZONA
9 ENTITLEMENT TO COLORADO RIVER WATER WITHIN THIS STATE TO MEET FUTURE WATER
10 NEEDS WITHIN THIS STATE.

11 2. PROVIDE THE OPPORTUNITY TO THE STATES OF CALIFORNIA AND NEVADA TO
12 STORE CURRENTLY UNUSED COLORADO RIVER WATER IN ARIZONA TO MEET FUTURE NEEDS
13 IN THOSE STATES.

14 F. THE PUBLIC POLICY AND GENERAL PURPOSES OF THIS CHAPTER ARE TO:

15 1. INCREASE UTILIZATION OF ARIZONA'S COLORADO RIVER ENTITLEMENT THAT
16 WAS CONFIRMED TO ARIZONA BY THE UNITED STATES SUPREME COURT IN ARTICLE
17 II(B)(1), (2) AND (6) OF THE DECREE ENTERED AT ARIZONA v. CALIFORNIA, 376
18 U.S. 340 (1964), AND THAT WOULD OTHERWISE BE UNUSED IN ARIZONA, BY DELIVERING
19 THAT WATER INTO THIS STATE THROUGH THE CENTRAL ARIZONA PROJECT AQUEDUCTS.

20 2. STORE WATER BROUGHT INTO THIS STATE THROUGH THE CENTRAL ARIZONA
21 PROJECT TO PROTECT ARIZONA MUNICIPAL AND INDUSTRIAL WATER USERS AGAINST
22 FUTURE WATER SHORTAGES ON THE COLORADO RIVER AND DISRUPTIONS OF OPERATION OF
23 THE CENTRAL ARIZONA PROJECT.

24 3. STORE WATER BROUGHT INTO THIS STATE THROUGH THE CENTRAL ARIZONA
25 PROJECT TO FULFILL THE WATER MANAGEMENT OBJECTIVES OF THIS STATE SET FORTH
26 IN CHAPTER 2 OF THIS TITLE.

27 4. PROVIDE THE OPPORTUNITY FOR STORING WATER BROUGHT INTO THIS STATE
28 THROUGH THE CENTRAL ARIZONA PROJECT TO BE AVAILABLE TO IMPLEMENT THE
29 SETTLEMENT OF WATER RIGHT CLAIMS BY INDIAN COMMUNITIES WITHIN ARIZONA.

30 5. PROVIDE THE OPPORTUNITY TO AUTHORIZED AGENCIES IN THE STATES OF
31 CALIFORNIA AND NEVADA TO STORE OTHERWISE UNUSED COLORADO RIVER WATER IN
32 ARIZONA TO ASSIST THOSE STATES IN MEETING FUTURE WATER NEEDS.

33 45-2402. Definitions

34 UNLESS THE CONTEXT OTHERWISE REQUIRES, THE TERMS DEFINED IN SECTIONS
35 45-101, 45-402 AND 45-802.01 HAVE THE SAME MEANING IN THIS CHAPTER AND FOR
36 PURPOSES OF THIS CHAPTER:

37 1. "AUTHORITY" MEANS THE ARIZONA WATER BANKING AUTHORITY.

38 2. "BANKING FUND" MEANS THE ARIZONA WATER BANKING FUND.

39 3. "CENTRAL ARIZONA WATER CONSERVATION DISTRICT" OR "CAWCD" MEANS THE
40 MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED UNDER TITLE 48,
41 CHAPTER 22.

42 4. "COMMISSION" MEANS THE ARIZONA WATER BANKING AUTHORITY COMMISSION.

43 5. "DECREE" MEANS THE DECREE ENTERED BY THE UNITED STATES SUPREME
44 COURT IN ARIZONA v. CALIFORNIA, 376 U.S. 340 (1964).

ARTICLE 2. ARIZONA WATER BANKING AUTHORITY

45-2421. Arizona water banking authority

A. THE ARIZONA WATER BANKING AUTHORITY IS ESTABLISHED. THE PURPOSES, POWERS AND DUTIES OF THE AUTHORITY SHALL BE EXECUTED BY A COMMISSION TO BE KNOWN AS THE ARIZONA WATER BANKING AUTHORITY COMMISSION.

B. THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS WHO ARE RESIDENTS OF THIS STATE:

1. THE DIRECTOR OF WATER RESOURCES WHO SERVES AS CHAIRPERSON OF THE COMMISSION.

2. THE PRESIDENT OF CAWCD OR A REPRESENTATIVE DESIGNATED BY THAT PRESIDENT.

3. ONE PERSON WHO IS APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211 AND WHO IS KNOWLEDGEABLE IN WATER RESOURCE MANAGEMENT.

4. ONE PERSON APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211 WHO REPRESENTS AN ENTITY THAT HOLDS A CENTRAL ARIZONA PROJECT MUNICIPAL AND INDUSTRIAL SUBCONTRACT.

5. ONE PERSON APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211 WHO REPRESENTS AN ENTITY LOCATED IN A COUNTY ADJACENT TO THE MAINSTREAM OF THE COLORADO RIVER THAT HOLDS A VALID CONTRACT WITH THE SECRETARY OF THE INTERIOR EXECUTED BEFORE JUNE 1, 1996, FOR DIVERSION AND BENEFICIAL CONSUMPTIVE USE OF COLORADO RIVER WATER IN THAT COUNTY.

C. THE COMMISSION MEMBERS APPOINTED BY THE GOVERNOR SHALL SERVE A SIX YEAR TERM OF OFFICE. A MEMBER MAY SERVE MORE THAN ONE TERM AND MAY CONTINUE TO SERVE BEYOND THE EXPIRATION OF THE TERM UNTIL A SUCCESSOR IS APPOINTED AND ASSUMES OFFICE. THE TERM OF OFFICE FOR THE COMMISSION MEMBERS APPOINTED BY THE GOVERNOR BEGINS AND ENDS ON THE THIRD MONDAY IN JANUARY. THE COMMISSION MEMBERS APPOINTED PURSUANT TO SUBSECTION B, PARAGRAPHS 3, 4 AND 5 MAY BE REMOVED BY THE GOVERNOR FOR CAUSE.

D. THE COMMISSION MEMBERS APPOINTED BY THE GOVERNOR SERVE WITHOUT COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT FOR EXPENSES FROM THE BANKING FUND PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

E. IN ORDER TO QUALIFY FOR OFFICE MEMBERS OF THE COMMISSION SHALL TAKE AND SUBSCRIBE TO AN OFFICIAL OATH TO PERFORM THE DUTIES OF THEIR OFFICE. THE OATH SHALL BE FILED WITH THE DIRECTOR. THE OFFICIAL OATHS SHALL BE IN THE FORM PRESCRIBED BY LAW FOR OFFICIAL OATHS OF STATE OFFICERS.

F. THE PRESIDENT OF THE SENATE, OR A SENATOR DESIGNATED BY THE PRESIDENT, AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, OR A REPRESENTATIVE DESIGNATED BY THE SPEAKER, SHALL EACH SERVE AS NONVOTING EX OFFICIO MEMBERS OF THE COMMISSION.

G. MEMBERS OF THE COMMISSION ARE PUBLIC OFFICERS AND ARE SUBJECT TO ALL PROVISIONS OF LAW APPLICABLE TO THESE OFFICERS.

H. MEMBERS OF THE COMMISSION ARE IMMUNE FROM LIABILITY FOR ANY ACTION NECESSARY TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

1 45-2422. Organization of commission: powers and duties:

2 exemption

3 A. THE COMMISSION SHALL SELECT A VICE-CHAIRPERSON AND A SECRETARY FROM
4 AMONG ITS MEMBERSHIP WHO SHALL EACH HOLD OFFICE FOR TERMS OF TWO YEARS TO
5 BEGIN AND END ON THE THIRD MONDAY IN JANUARY.

6 B. THE POWERS AND AUTHORITY VESTED IN AND THE DUTIES IMPOSED ON THE
7 AUTHORITY SHALL BE EXERCISED BY A MINIMUM OF THREE VOTING MEMBERS OF THE
8 COMMISSION VOTING IN AGREEMENT.

9 C. THE AUTHORITY IS NOT A PUBLIC SERVICE CORPORATION SUBJECT TO
10 REGULATION BY THE ARIZONA CORPORATION COMMISSION.

11 45-2423. Powers and duties of authority

12 A. THE AUTHORITY, ACTING THROUGH ITS COMMISSION, SHALL:

13 1. ADMINISTER THE ARIZONA WATER BANKING FUND IN ACCORDANCE WITH THIS
14 CHAPTER.

15 2. COORDINATE ITS STAFFING NEEDS WITH THE DIRECTOR AND CAWCD.

16 3. COORDINATE THE STORAGE OF WATER AND DISTRIBUTION AND EXTINGUISHMENT
17 OF LONG-TERM STORAGE CREDITS WITH THE DIRECTOR IN ACCORDANCE WITH THIS
18 CHAPTER AND THE WATER MANAGEMENT OBJECTIVES SET FORTH IN CHAPTER 2 OF THIS
19 TITLE.

20 4. COORDINATE WITH CAWCD FOR THE PURCHASE, DELIVERY AND STORAGE OF
21 COLORADO RIVER WATER DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT IN
22 ACCORDANCE WITH THIS CHAPTER.

23 5. COORDINATE AND CONFER WITH STATE AGENCIES, MUNICIPAL CORPORATIONS,
24 SPECIAL DISTRICTS, AUTHORITIES, OTHER POLITICAL SUBDIVISIONS, PRIVATE
25 ENTITIES, INDIAN COMMUNITIES AND THE UNITED STATES ON MATTERS WITHIN THEIR
26 JURISDICTION RELATING TO THE POLICY AND PURPOSES OF THIS CHAPTER.

27 6. DETERMINE, ON AN ANNUAL BASIS, THE QUANTITY OF COLORADO RIVER WATER
28 TO BE STORED BY THE AUTHORITY AND WHERE THAT STORAGE WILL OCCUR.

29 7. ACCOUNT FOR, HOLD AND DISTRIBUTE OR EXTINGUISH LONG-TERM STORAGE
30 CREDITS IN ACCORDANCE WITH THIS CHAPTER.

31 8. COMPLY WITH ALL ASPECTS OF CHAPTER 3.1 OF THIS TITLE.

32 9. ADOPT AN OFFICIAL SEAL FOR THE AUTHENTICATION OF ITS RECORDS,
33 DECISIONS AND RESOLUTIONS.

34 10. KEEP THE MINUTES OF ITS MEETINGS, ALL RECORDS, REPORTS AND OTHER
35 INFORMATION RELATING TO ITS WORK AND PROGRAMS IN PERMANENT FORM,
36 SYSTEMATICALLY INDEXED AND FILED.

37 B. THE AUTHORITY, ACTING THROUGH ITS COMMISSION, MAY:

38 1. APPLY FOR AND HOLD WATER STORAGE PERMITS.

39 2. ACCRUE, EXCHANGE AND HOLD LONG-TERM STORAGE CREDITS IN ACCORDANCE
40 WITH THIS CHAPTER.

41 3. MAKE AND EXECUTE ALL CONTRACTS, INCLUDING INTERGOVERNMENTAL
42 AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, THAT SHALL BE SIGNED
43 BY THE CHAIRPERSON, OR IN THE CHAIRPERSON'S ABSENCE THE VICE-CHAIRPERSON, AND
44 ATTESTED BY THE SECRETARY, NECESSARY TO:

1 (a) OBTAIN FOR STORAGE COLORADO RIVER WATER DELIVERED THROUGH THE
2 CENTRAL ARIZONA PROJECT. AGREEMENTS BY WHICH THE AUTHORITY OBTAINS COLORADO
3 RIVER WATER ARE EXEMPT FROM THE REQUIREMENTS OF TITLE 41, CHAPTER 23.

4 (b) AFFILIATE WATER STORAGE PERMITS HELD BY THE AUTHORITY WITH STORAGE
5 FACILITY PERMITS.

6 (c) STORE COLORADO RIVER WATER AT PERMITTED STORAGE FACILITIES.

7 (d) DISTRIBUTE LONG-TERM STORAGE CREDITS EARNED BY THE AUTHORITY TO
8 MAKE WATER AVAILABLE TO MUNICIPAL AND INDUSTRIAL USERS OF COLORADO RIVER
9 WATER IN THIS STATE THAT ARE INSIDE OR OUTSIDE OF THE CAWCD SERVICE AREA, IN
10 ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

11 (e) STORE COLORADO RIVER WATER IN ARIZONA ON BEHALF OF APPROPRIATELY
12 AUTHORIZED AGENCIES IN CALIFORNIA AND NEVADA.

13 (f) CAUSE A DECREASE IN ARIZONA DIVERSIONS FROM THE COLORADO RIVER,
14 ENSURING THAT ARIZONA WILL USE LESS THAN ITS FULL ENTITLEMENT TO COLORADO
15 RIVER WATER IN YEARS IN WHICH CALIFORNIA AND NEVADA AGENCIES ARE
16 CONTRACTUALLY AUTHORIZED TO CALL ON THE WATER STORED ON THEIR BEHALF BY THE
17 AUTHORITY.

18 (g) DISTRIBUTE LONG-TERM STORAGE CREDITS EARNED BY THE AUTHORITY ON
19 BEHALF OF AGENCIES IN CALIFORNIA AND NEVADA TO COLORADO RIVER WATER USERS IN
20 ARIZONA TO USE IN PLACE OF COLORADO RIVER WATER THAT WOULD HAVE OTHERWISE
21 BEEN USED BY THOSE ARIZONA USERS.

22 4. SUE AND BE SUED.

23 5. PERFORM ALL OTHER ACTS NECESSARY FOR THE AUTHORITY TO CARRY OUT ITS
24 PURPOSES, POWERS AND DUTIES IN ACCORDANCE WITH THIS CHAPTER.

25 45-2424. Administration

26 A. THE DIRECTOR SHALL PROVIDE ADMINISTRATIVE, TECHNICAL AND LEGAL
27 SUPPORT TO THE AUTHORITY TO THE EXTENT REQUESTED BY THE AUTHORITY. THE
28 DIRECTOR MAY HIRE STAFF, WHO SHALL BE EMPLOYEES OF THE DEPARTMENT OF WATER
29 RESOURCES, NECESSARY TO PROVIDE THE LEVEL OF SUPPORT REQUESTED BY THE
30 AUTHORITY.

31 B. THE DIRECTOR MAY EMPLOY A PERSON IN THE CAPACITY OF ARIZONA WATER
32 BANKING AUTHORITY MANAGER WHO SHALL BE AN EMPLOYEE OF THE DEPARTMENT OF WATER
33 RESOURCES. THE PERSON EMPLOYED IN THIS CAPACITY SHALL POSSESS A HIGH LEVEL
34 OF EXPERTISE AND EXPERIENCE IN COLORADO RIVER AND WATER RESOURCE MANAGEMENT
35 IN ARIZONA.

36 C. THE DIRECTOR, ON AN ANNUAL BASIS, SHALL PREPARE AND SUBMIT TO THE
37 AUTHORITY A BUDGET SHOWING THE COST OF PROVIDING THE SERVICES REQUESTED BY
38 THE AUTHORITY FOR THE FOLLOWING FISCAL YEAR. THE AUTHORITY MAY ADJUST ITS
39 REQUEST FOR SERVICES, OR WHEN SATISFIED WITH THE BUDGET, MAY ADOPT IT. THE
40 AUTHORITY SHALL REIMBURSE THE DEPARTMENT OF WATER RESOURCES WITH MONIES FROM
41 THE BANKING FUND FOR THE SERVICES PROVIDED THE AUTHORITY IN ACCORDANCE WITH
42 AN ADOPTED BUDGET.

43 D. THE CAWCD SHALL PROVIDE TECHNICAL SUPPORT TO THE AUTHORITY TO THE
44 EXTENT REQUESTED BY THE AUTHORITY. THAT TECHNICAL SUPPORT SHALL INCLUDE

1 EXPERTISE IN THE ANNUAL OPERATION AND CAPACITY OF THE CENTRAL ARIZONA PROJECT
2 AQUEDUCTS AND ON THE USE OF THOSE AQUEDUCTS TO FULFILL THE PURPOSES OF THIS
3 CHAPTER WITHOUT IMPEDING OTHER WATER DELIVERIES BY CAWCD. THE CAWCD, ON AN
4 ANNUAL BASIS, SHALL PREPARE AND SUBMIT TO THE AUTHORITY A BUDGET SHOWING THE
5 COST OF PROVIDING THE SERVICES REQUESTED BY THE AUTHORITY FOR THE FOLLOWING
6 FISCAL YEAR. THE AUTHORITY MAY ADJUST ITS REQUEST FOR SERVICES, OR WHEN
7 SATISFIED WITH THE BUDGET, MAY ADOPT IT. THE AUTHORITY SHALL REIMBURSE THE
8 CAWCD WITH MONIES FROM THE BANKING FUND FOR THE SERVICES PROVIDED THE
9 AUTHORITY IN ACCORDANCE WITH AN ADOPTED BUDGET.

10 45-2425. Arizona water banking fund

11 A. THE ARIZONA WATER BANKING FUND IS ESTABLISHED. THE STATE TREASURER
12 SHALL ESTABLISH SUBACCOUNTS OF THE BANKING FUND BASED ON FUNDING SOURCES.
13 THE AUTHORITY SHALL ADMINISTER THE FUND IN ACCORDANCE WITH THIS CHAPTER.

14 B. THE BANKING FUND CONSISTS OF ALL OF THE FOLLOWING:

15 1. MONIES APPROPRIATED FROM THE STATE GENERAL FUND BY THE LEGISLATURE.

16 2. REIMBURSEMENT FOR THE DISTRIBUTION OF LONG-TERM STORAGE CREDITS,
17 COLLECTED BY THE AUTHORITY IN ACCORDANCE WITH SECTION 45-2457, SUBSECTION B,
18 PARAGRAPH 2.

19 3. MONIES PAID TO THE AUTHORITY BY THE RECIPIENTS OF IN LIEU WATER AT
20 A GROUNDWATER SAVINGS FACILITY, IN ACCORDANCE WITH SECTION 45-2455,
21 SUBSECTION C.

22 4. MONIES COLLECTED IN ACCORDANCE WITH SECTION 45-611, SUBSECTION C,
23 PARAGRAPH 3.

24 5. MONIES DEPOSITED IN THE FUND IN ACCORDANCE WITH SECTION 48-3715.03,
25 SUBSECTION B.

26 6. MONIES PAID TO THE AUTHORITY BY AGENCIES THAT HAVE ENTERED INTO
27 INTERSTATE BANKING AGREEMENTS WITH THE AUTHORITY IN ACCORDANCE WITH SECTION
28 45-2471.

29 C. IN ADDITION TO THE MONIES PRESCRIBED IN THIS SECTION, THE AUTHORITY
30 MAY ACCEPT ANY GIFTS, GRANTS OR DONATIONS AND DEPOSIT THOSE MONIES IN THE
31 BANKING FUND.

32 D. MONIES IN THE BANKING FUND ARE EXEMPT FROM LAPSING UNDER SECTION
33 35-190. INTEREST EARNED ON MONIES IN THE BANKING FUND SHALL BE CREDITED TO
34 THE BANKING FUND.

35 E. THE AUTHORITY MAY USE THE BANKING FUND TO PAY ALL REASONABLE
36 EXPENSES INCURRED IN CARRYING OUT ITS DUTIES AND RESPONSIBILITIES IN
37 ACCORDANCE WITH THIS CHAPTER.

38 45-2426. Annual report

39 A. THE COMMISSION SHALL MAKE AND SUBMIT TO THE GOVERNOR, PRESIDENT OF
40 THE SENATE AND SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE AUGUST
41 1 OF EACH YEAR A REPORT CONTAINING A FULL AND COMPLETE ACCOUNT OF ITS
42 TRANSACTIONS AND PROCEEDINGS FOR THE PRECEDING FISCAL YEAR. THE AUTHORITY
43 MAY SUBMIT WITH THE REPORT A REQUEST FOR A GENERAL FUND APPROPRIATION FOR THE
44 FOLLOWING FISCAL YEAR.

- 1 B. THE REPORT SHALL CONTAIN ALL OF THE FOLLOWING:
2 1. AN ACCOUNTING OF ALL MONIES EXPENDED FROM THE BANKING FUND.
3 2. AN ACCOUNTING OF ALL MONIES IN THE BANKING FUND REMAINING AVAILABLE
4 TO THE AUTHORITY.
5 3. THE AMOUNT OF WATER STORED BY THE AUTHORITY.
6 4. THE NUMBER OF LONG-TERM STORAGE CREDITS DISTRIBUTED OR EXTINGUISHED
7 BY THE AUTHORITY.
8 5. THE PURPOSES FOR WHICH LONG-TERM STORAGE CREDITS WERE DISTRIBUTED
9 OR EXTINGUISHED BY THE AUTHORITY.
10 6. ANY OTHER MATTER DETERMINED BY THE AUTHORITY TO BE RELEVANT TO THE
11 POLICY AND PURPOSES OF THIS CHAPTER.

12 C. IF THE AUTHORITY SUBMITS A REQUEST FOR A GENERAL FUND APPROPRIATION
13 WITH ITS ANNUAL REPORT, IT SHALL INCLUDE WITH THE REQUEST A BUDGET DETAILING
14 HOW THE APPROPRIATION WOULD BE USED AND JUSTIFYING THE NEED FOR THE
15 APPROPRIATION.

16 45-2427. Limitation on powers

17 A. THIS CHAPTER DOES NOT AUTHORIZE THE AUTHORITY TO EXERCISE ANY RIGHT
18 OF EMINENT DOMAIN.

19 B. THE AUTHORITY SHALL NOT STORE COLORADO RIVER WATER THAT WOULD
20 OTHERWISE HAVE BEEN USED IN THIS STATE.

21 C. THE AUTHORITY SHALL NOT ENTER INTO CONTRACTS WITH AGENCIES IN
22 CALIFORNIA AND NEVADA FOR THE STORAGE OF WATER ON THEIR BEHALF UNTIL BOTH OF
23 THE FOLLOWING OCCUR:

24 1. REGULATIONS ARE IN EFFECT, PROMULGATED BY THE SECRETARY OF THE
25 INTERIOR OF THE UNITED STATES, THAT FACILITATE AND ALLOW THE CONTRACTUAL
26 DISTRIBUTION OF UNUSED ENTITLEMENT UNDER ARTICLE II(B)(6) OF THE DECREE.

27 2. THE DIRECTOR FINDS THAT THE RULES PROMULGATED BY THE SECRETARY OF
28 THE INTERIOR ADEQUATELY PROTECT THIS STATE'S RIGHTS TO COLORADO RIVER WATER,
29 AS THOSE RIGHTS ARE DEFINED BY THE DECREE.

30 ARTICLE 3. WATER BANK PLANNING AND IMPLEMENTATION

31 45-2451. First year banking program

32 BY JULY 1, 1997, THE AUTHORITY SHALL HAVE USED ITS BEST EFFORTS TO
33 STORE PURSUANT TO THIS CHAPTER A MINIMUM OF ONE HUNDRED THOUSAND ACRE-Feet
34 OF COLORADO RIVER WATER IN THIS STATE. THE ANNUAL REPORT OF THE AUTHORITY
35 TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
36 REPRESENTATIVES DUE ON AUGUST 1, 1997 SHALL REPORT THE AMOUNT OF WATER STORED
37 SINCE THE EFFECTIVE DATE OF THIS CHAPTER AND IF ONE HUNDRED THOUSAND
38 ACRE-Feet OF WATER HAVE NOT BEEN STORED, THE REASONS WHY THIS GOAL HAS NOT
39 BEEN ACHIEVED.

40 45-2452. Storage facility inventory

41 A. BY MARCH 1, 1997, THE AUTHORITY SHALL PREPARE AND ASSESS AN
42 INVENTORY OF EXISTING STORAGE FACILITIES IN THIS STATE TO DETERMINE WHETHER
43 EXISTING STORAGE FACILITIES ARE AVAILABLE TO MEET THE AUTHORITY'S NEEDS FOR
44 THE FOLLOWING TEN YEARS. THE AUTHORITY SHALL GIVE SPECIAL CONSIDERATION TO

1 STORAGE FACILITIES CONSTRUCTED WITH MONIES FROM THE STATE WATER STORAGE FUND,
2 ESTABLISHED PURSUANT TO SECTION 45-897.01. THE INVENTORY SHALL IDENTIFY THE
3 LOCATION AND CAPACITY OF EACH STORAGE FACILITY AND THE FEASIBILITY OF THE
4 AUTHORITY STORING WATER AT THE IDENTIFIED FACILITIES.

5 B. IN ASSESSING THE INVENTORY, THE AUTHORITY SHALL CONSULT WITH THE
6 DEPARTMENT OF WATER RESOURCES TO DETERMINE WHETHER STORAGE BY THE AUTHORITY
7 AT EACH STORAGE FACILITY IDENTIFIED IN THE INVENTORY AS A POTENTIAL STORAGE
8 FACILITY TO BE USED BY THE AUTHORITY PROMOTES THE WATER MANAGEMENT OBJECTIVES
9 SET FORTH IN CHAPTER 2 OF THIS TITLE.

10 C. IN ASSESSING THE INVENTORY, THE AUTHORITY SHALL CONSULT WITH CAWCD
11 TO DETERMINE WHETHER CENTRAL ARIZONA PROJECT WATER DELIVERY AND STORAGE ARE
12 FEASIBLE AT EACH STORAGE FACILITY IDENTIFIED IN THE INVENTORY AS A POTENTIAL
13 STORAGE FACILITY TO BE USED BY THE AUTHORITY.

14 D. BASED ON THE CONSULTATIONS WITH THE DEPARTMENT OF WATER RESOURCES
15 AND THE CAWCD AND ANY OTHER RELEVANT FACTORS, THE AUTHORITY SHALL DETERMINE
16 WHETHER STORAGE FACILITIES EXIST IN THIS STATE TO MEET THE WATER STORAGE
17 NEEDS OF THE AUTHORITY FOR THE FOLLOWING TEN YEARS. IN MAKING THIS
18 DETERMINATION, THE AUTHORITY SHALL MAXIMIZE TO THE EXTENT FEASIBLE STORAGE
19 FACILITIES CONSTRUCTED WITH MONIES FROM THE STATE WATER STORAGE FUND,
20 ESTABLISHED PURSUANT TO SECTION 45-897.01.

21 E. THE AUTHORITY SHALL ADOPT THE STORAGE FACILITY INVENTORY IF THE
22 AUTHORITY DETERMINES THAT ALL OF THE FOLLOWING APPLY TO THE STORAGE FACILITY
23 INVENTORY:

24 1. IT REPRESENTS AN ACCURATE INVENTORY OF STORAGE FACILITIES IN THIS
25 STATE.

26 2. IT ACCURATELY IDENTIFIES THOSE STORAGE FACILITIES THAT ARE
27 AVAILABLE FOR THE AUTHORITY'S USE.

28 3. IT ACCURATELY DETERMINES WHETHER ADDITIONAL STORAGE FACILITIES ARE
29 NEEDED FOR THE AUTHORITY'S USE DURING THE FOLLOWING TEN YEARS.

30 F. THE AUTHORITY SHALL SUBSEQUENTLY UPDATE THE STORAGE FACILITY
31 INVENTORY AT LEAST ONCE EVERY FIVE YEARS.

32 45-2453. Plan for additional storage facilities

33 A. IF A STORAGE FACILITY INVENTORY OR AN UPDATE CONCLUDES THAT
34 ADDITIONAL STORAGE FACILITIES ARE NECESSARY TO MEET THE NEEDS OF THE
35 AUTHORITY FOR THE FOLLOWING TEN YEARS, THE AUTHORITY SHALL DEVELOP A PLAN FOR
36 THE DEVELOPMENT OF ADDITIONAL STORAGE FACILITIES THAT SPECIFIES THE TYPE,
37 LOCATION, DATE NEEDED AND CAPACITY OF ADDITIONAL STORAGE FACILITIES
38 NECESSARY TO MEET THE NEEDS OF THE AUTHORITY.

39 B. IN DEVELOPING THE PLAN FOR ADDITIONAL STORAGE FACILITIES, THE
40 AUTHORITY SHALL CONSIDER ALL OF THE FOLLOWING:

41 1. THE AMOUNT OF ADDITIONAL STORAGE CAPACITY NEEDED TO MEET THE
42 AUTHORITY'S WATER STORAGE NEEDS.

1 2. THE ADVICE OF THE DEPARTMENT OF WATER RESOURCES REGARDING WHERE
2 WATER STORAGE WOULD MOST CONTRIBUTE TO MEETING THE WATER MANAGEMENT
3 OBJECTIVES SET FORTH IN CHAPTER 2 OF THIS TITLE.

4 3. THE ADVICE OF CAWCD REGARDING THE FEASIBILITY OF DELIVERING AND
5 STORING CENTRAL ARIZONA PROJECT WATER AT ANY PROPOSED STORAGE FACILITY.

6 4. THE ADVICE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY REGARDING ANY
7 POTENTIAL ADVERSE IMPACTS FROM A PROPOSED STORAGE FACILITY TO LANDOWNERS AND
8 WATER USERS IN THE VICINITY OF ANY PROPOSED STORAGE FACILITY.

9 5. THE POTENTIAL COSTS TO THE AUTHORITY OF FACILITATING THE
10 CONSTRUCTION OR DEVELOPMENT OF A PROPOSED STORAGE FACILITY AND THE
11 COST-EFFECTIVENESS OF ANY PROPOSED STORAGE FACILITY.

12 6. WHETHER CAWCD OR OTHER ENTITIES WOULD BE WILLING TO CONSTRUCT,
13 MAINTAIN AND OPERATE ANY PROPOSED STORAGE FACILITY.

14 7. THE WAY IN WHICH WATER STORED AT A PROPOSED STORAGE FACILITY COULD
15 BE USED BY THE AUTHORITY TO ACHIEVE THE POLICY AND PURPOSES OF THIS CHAPTER.

16 8. ANY OTHER FACTOR THE AUTHORITY DETERMINES TO BE RELEVANT.

17 C. BEFORE ADOPTING A PLAN FOR ADDITIONAL STORAGE FACILITIES, THE
18 AUTHORITY SHALL PREPARE A DRAFT PLAN FOR ADDITIONAL STORAGE FACILITIES. THE
19 AUTHORITY SHALL SOLICIT PUBLIC COMMENT ON THE DRAFT PLAN FOR ADDITIONAL
20 STORAGE FACILITIES BY PRESENTING THE DRAFT PLAN:

21 1. TO THE GROUNDWATER USERS ADVISORY COUNCILS FOR THE TUCSON, PHOENIX
22 AND PINAL ACTIVE MANAGEMENT AREAS. THE PRESENTATION SHALL BE MADE AT
23 PUBLICLY NOTICED OPEN MEETINGS OF EACH ADVISORY COUNCIL AT WHICH MEMBERS OF
24 THE PUBLIC SHALL BE ALLOWED TO COMMENT ON THE DRAFT PLAN FOR ADDITIONAL
25 STORAGE FACILITIES.

26 2. IF ANY PROPOSED STORAGE FACILITY IS LOCATED OUTSIDE OF AN ACTIVE
27 MANAGEMENT AREA, TO THE COUNTY BOARD OF SUPERVISORS FOR EACH COUNTY IN WHICH
28 A PROPOSED FACILITY IS TO BE LOCATED. THE PRESENTATION SHALL BE MADE AT A
29 PUBLICLY NOTICED OPEN MEETING OF THE COUNTY BOARD OF SUPERVISORS AT WHICH
30 MEMBERS OF THE PUBLIC SHALL BE ALLOWED TO COMMENT ON THE DRAFT PLAN FOR
31 ADDITIONAL STORAGE FACILITIES.

32 D. THE AUTHORITY MAY REVISE THE DRAFT PLAN FOR ADDITIONAL STORAGE
33 FACILITIES BASED ON THE PUBLIC COMMENT RECEIVED.

34 E. THE AUTHORITY SHALL ADOPT THE PLAN FOR ADDITIONAL STORAGE
35 FACILITIES IF THE AUTHORITY DETERMINES THAT THE PLAN, WHEN IMPLEMENTED, WILL
36 MEET THE NEEDS OF THE AUTHORITY FOR THE FOLLOWING TEN YEARS. IF ADOPTING A
37 PLAN FOR ADDITIONAL STORAGE FACILITIES, THE AUTHORITY SHALL ADOPT THE PLAN
38 WITHIN NINE MONTHS OF ADOPTING THE STORAGE FACILITY INVENTORY OR UPDATE.

39 F. THE AUTHORITY MAY MODIFY AN ADOPTED PLAN FOR ADDITIONAL STORAGE
40 FACILITIES AFTER SOLICITING PUBLIC COMMENT ON THE MODIFICATION IN ACCORDANCE
41 WITH SUBSECTION C OF THIS SECTION.

42 45-2454. Implementation of storage facilities plan

43 A. THE AUTHORITY SHALL IMPLEMENT AN ADOPTED PLAN FOR ADDITIONAL
44 STORAGE FACILITIES.

1 B. TO FACILITATE THE DEVELOPMENT OR CONSTRUCTION OF ADDITIONAL STORAGE
2 FACILITIES REQUIRED BY A PLAN, THE AUTHORITY SHALL SOLICIT PROPOSALS FROM
3 CAWCD AND OTHER ENTITIES WILLING TO UNDERTAKE THE DEVELOPMENT OR CONSTRUCTION
4 OF THOSE STORAGE FACILITIES. THE AUTHORITY MAY NEGOTIATE AND ENTER INTO
5 WATER STORAGE AGREEMENTS IN ACCORDANCE WITH SECTION 45-2455 WITH CAWCD AND
6 OTHER ENTITIES THAT SUBMIT PROPOSALS ACCEPTABLE TO THE AUTHORITY.

7 45-2455. Water storage agreements: groundwater savings
8 facilities

9 A. THE AUTHORITY MAY NOT OWN, DEVELOP, OPERATE OR CONSTRUCT STORAGE
10 FACILITIES BUT MAY ENTER INTO CONTRACTS TO RESERVE STORAGE CAPACITY AT
11 STORAGE FACILITIES AND MAY PAY REASONABLE COMPENSATION FOR THOSE
12 RESERVATIONS.

13 B. THE AUTHORITY MAY ENTER INTO AGREEMENTS WITH STORAGE FACILITY
14 PERMIT HOLDERS TO STORE WATER AT STORAGE FACILITIES AND MAY PAY REASONABLE
15 COMPENSATION FOR THE COSTS ASSOCIATED WITH OPERATING AND MAINTAINING A
16 STORAGE FACILITY TO THE EXTENT THAT THE STORAGE FACILITY IS USED TO STORE
17 WATER FOR THE PURPOSES OF THE AUTHORITY.

18 C. TO STORE WATER AT A GROUNDWATER SAVINGS FACILITY, THE AUTHORITY MAY
19 ENTER INTO AGREEMENTS THAT REQUIRE THE RECIPIENTS OF IN LIEU WATER TO PAY TO
20 THE AUTHORITY ALL OR PART OF THE COST OF PROVIDING THE IN LIEU WATER TO THE
21 RECIPIENTS.

22 D. AGREEMENTS ENTERED INTO UNDER THIS SECTION SHALL NOT IMPEDE THE
23 ABILITY OF THE CAWCD TO MEET THE OBLIGATIONS OF ITS CENTRAL ARIZONA PROJECT
24 WATER SERVICE CONTRACTS AND SUBCONTRACTS.

25 45-2456. Annual plan of operation

26 A. BY DECEMBER 1 OF EACH YEAR, THE AUTHORITY SHALL ADOPT A PLAN OF
27 OPERATION FOR THE FOLLOWING CALENDAR YEAR.

28 B. IN DEVELOPING THE PLAN OF OPERATION, THE AUTHORITY SHALL CONSIDER
29 ALL OF THE FOLLOWING:

- 30 1. THE AMOUNT OF COLORADO RIVER WATER AVAILABLE FOR STORAGE.
- 31 2. THE ADVICE OF THE DEPARTMENT OF WATER RESOURCES REGARDING WHERE
32 WATER STORAGE WOULD MOST CONTRIBUTE TO FULFILLING THE WATER MANAGEMENT
33 OBJECTIVES SET FORTH IN CHAPTER 2 OF THIS TITLE.
- 34 3. THE ADVICE OF CAWCD REGARDING THE AMOUNT AND LOCATION OF WATER
35 DELIVERY AND STORAGE THAT IS FEASIBLE.
- 36 4. THE RESPECTIVE COSTS OF STORING WATER AT AVAILABLE STORAGE
37 FACILITIES.
- 38 5. THE AMOUNT OF STORAGE ALLOWED BY WATER STORAGE PERMITS HELD BY THE
39 AUTHORITY.
- 40 6. THE MONIES AVAILABLE FROM THE BANKING FUND.
- 41 7. THE WAY IN WHICH WATER STORED COULD BE USED BY THE AUTHORITY TO
42 ACHIEVE THE POLICY AND PURPOSES OF THIS CHAPTER.
- 43 8. ANY OTHER FACTOR THE AUTHORITY DETERMINES TO BE RELEVANT.

1 C. THE AUTHORITY SHALL PREPARE A DRAFT PLAN OF OPERATION EACH YEAR.
2 THE AUTHORITY SHALL SOLICIT PUBLIC COMMENT ON THE DRAFT PLAN OF OPERATION BY
3 PRESENTING THE DRAFT PLAN OF OPERATION:

4 1. TO THE GROUNDWATER USERS ADVISORY COUNCILS FOR THE TUCSON, PHOENIX
5 AND PINAL ACTIVE MANAGEMENT AREAS. THE PRESENTATION SHALL BE MADE AT
6 PUBLICLY NOTICED OPEN MEETINGS OF EACH ADVISORY COUNCIL AT WHICH MEMBERS OF
7 THE PUBLIC SHALL BE ALLOWED TO COMMENT ON THE DRAFT PLAN OF OPERATION.

8 2. IF ANY WATER STORAGE DURING THE YEAR IS TO OCCUR OUTSIDE OF AN
9 ACTIVE MANAGEMENT AREA, TO THE COUNTY BOARD OF SUPERVISORS FOR EACH COUNTY
10 IN WHICH THE STORAGE IS TO OCCUR. THE PRESENTATION SHALL BE MADE AT A
11 PUBLICLY NOTICED OPEN MEETING OF THE COUNTY BOARD OF SUPERVISORS AT WHICH
12 MEMBERS OF THE PUBLIC SHALL BE ALLOWED TO COMMENT ON THE DRAFT PLAN OF
13 OPERATION.

14 D. THE AUTHORITY MAY REVISE THE DRAFT PLAN OF OPERATION BASED ON THE
15 PUBLIC COMMENT RECEIVED.

16 E. AN ADOPTED PLAN OF OPERATION SHALL INCLUDE ALL OF THE FOLLOWING:

17 1. A PROJECTION OF EXPENDITURES FOR ACQUIRING WATER.

18 2. A PROJECTION OF THE AMOUNT OF WATER TO BE ACQUIRED EACH MONTH BY
19 THE AUTHORITY.

20 3. A PROJECTION OF THE COST OF DELIVERING THAT WATER THROUGH THE
21 CENTRAL ARIZONA PROJECT TO A STORAGE FACILITY, INCLUDING FEES FOR THE
22 OPERATION, MAINTENANCE, PUMPING ENERGY AND CAPITAL COSTS OF THE CENTRAL
23 ARIZONA PROJECT AS ESTABLISHED BY CAWCD.

24 4. A PROJECTION OF EXPENDITURES FOR WATER STORAGE.

25 5. A PROJECTION OF WATER STORAGE PERMITS TO BE OBTAINED AND A
26 PROJECTION OF WITH WHICH STORAGE FACILITY PERMIT EACH WATER STORAGE PERMIT
27 WILL BE AFFILIATED.

28 6. A PROJECTION OF THE AMOUNT OF WATER TO BE STORED, ACCOUNTED FOR BY
29 ACTIVE MANAGEMENT AREA, AND IF WATER STORAGE WILL OCCUR OUTSIDE OF AN ACTIVE
30 MANAGEMENT AREA, BY GROUNDWATER BASIN OR SUBBASIN.

31 7. A PROJECTION OF LONG-TERM STORAGE CREDITS THAT WILL BE DISTRIBUTED
32 OR EXTINGUISHED, ACCOUNTED FOR BY LOCATION WHERE THE LONG-TERM STORAGE
33 CREDITS WERE STORED, THE PURPOSE FOR WHICH THE DISTRIBUTION OR EXTINGUISHMENT
34 WILL OCCUR AND THE PERSONS TO WHOM THE LONG-TERM STORAGE CREDITS WILL BE
35 DISTRIBUTED.

36 8. ANY OTHER MATTER DETERMINED TO BE RELEVANT BY THE AUTHORITY.

37 F. THE AUTHORITY MAY MODIFY AN ADOPTED PLAN OF OPERATION.

38 G. THE AUTHORITY SHALL OPERATE IN ACCORDANCE WITH ITS ADOPTED OR
39 MODIFIED PLAN OF OPERATION.

40 45-2457. Accounting; rules of operation

41 A. THE AUTHORITY SHALL DEVELOP AN ACCOUNTING SYSTEM FOR THE LONG-TERM
42 STORAGE CREDITS ACCRUED BY THE AUTHORITY. THE ACCOUNTING SYSTEM SHALL BE
43 DESIGNED TO ALLOW THE AUTHORITY TO DETERMINE WHICH FUNDING SOURCE OF THE
44 BANKING FUND PAID FOR EACH LONG-TERM STORAGE CREDIT ACCRUED BY THE AUTHORITY.

1 B. THE AUTHORITY SHALL OPERATE IN ACCORDANCE WITH ALL OF THE FOLLOWING
2 RULES OF OPERATION:

3 1. THE AUTHORITY SHALL RESERVE A REASONABLE NUMBER OF LONG-TERM
4 STORAGE CREDITS ACCRUED WITH GENERAL FUND APPROPRIATIONS FOR THE BENEFIT OF
5 MUNICIPAL AND INDUSTRIAL USERS OF COLORADO RIVER WATER IN THIS STATE THAT ARE
6 OUTSIDE OF THE SERVICE AREA OF CAWCD.

7 2. THE AUTHORITY MAY DISTRIBUTE LONG-TERM STORAGE CREDITS ACCRUED WITH
8 GENERAL FUND APPROPRIATIONS FOR BOTH OF THE FOLLOWING:

9 (a) TO MAKE WATER AVAILABLE TO A MUNICIPAL AND INDUSTRIAL USER OF
10 COLORADO RIVER WATER IN THIS STATE THAT IS OUTSIDE OF THE SERVICE AREA OF
11 CAWCD, IF BOTH OF THE FOLLOWING APPLY:

12 (i) THE MUNICIPAL AND INDUSTRIAL USER WOULD OTHERWISE SUFFER A WATER
13 SHORTAGE. THE AUTHORITY MAY DISTRIBUTE LONG-TERM CREDITS TO THE EXTENT
14 REASONABLY NECESSARY TO OFFSET THE WATER SHORTAGE.

15 (ii) THE AUTHORITY COLLECTS REIMBURSEMENT FOR THE COST TO THE
16 AUTHORITY OF REPLACING THE LONG-TERM STORAGE CREDITS DISTRIBUTED.

17 (b) TO MAKE WATER AVAILABLE TO CAWCD TO THE EXTENT NECESSARY FOR
18 CAWCD TO MEET THE DEMANDS OF ITS MUNICIPAL AND INDUSTRIAL SUBCONTRACTORS, IF
19 ALL OF THE FOLLOWING APPLY:

20 (i) CAWCD'S NORMAL DIVERSIONS FROM THE COLORADO RIVER HAVE BEEN OR
21 WILL BE DISRUPTED BY SHORTAGES ON THE RIVER OR BY DISRUPTIONS IN THE
22 OPERATION OF THE CENTRAL ARIZONA PROJECT.

23 (ii) THE AUTHORITY DOES NOT DISTRIBUTE FOR THIS PURPOSE THE LONG-TERM
24 STORAGE CREDITS RESERVED IN ACCORDANCE WITH PARAGRAPH 1 OF THIS SUBSECTION.

25 (iii) THE AUTHORITY COLLECTS REIMBURSEMENT FROM CAWCD FOR THE COST TO
26 THE AUTHORITY OF REPLACING THE LONG-TERM STORAGE CREDITS DISTRIBUTED.

27 3. THE AUTHORITY MAY DISTRIBUTE OR EXTINGUISH LONG-TERM STORAGE
28 CREDITS ACCRUED WITH GENERAL FUND APPROPRIATIONS TO IMPLEMENT THE SETTLEMENT
29 OF WATER RIGHT CLAIMS BY INDIAN COMMUNITIES IN THIS STATE.

30 4. ON REQUEST FROM THE DIRECTOR, THE AUTHORITY MAY EXTINGUISH LONG-
31 TERM STORAGE CREDITS ACCRUED WITH GENERAL FUND APPROPRIATIONS TO FULFILL THE
32 WATER MANAGEMENT OBJECTIVES SET FORTH IN CHAPTER 2 OF THIS TITLE.

33 5. THE AUTHORITY MAY EXCHANGE LONG-TERM STORAGE CREDITS ACCRUED WITH
34 GENERAL FUND APPROPRIATIONS FOR LONG-TERM STORAGE CREDITS HELD BY OTHER
35 PERSONS IF THE LONG-TERM STORAGE CREDITS RECEIVED BY THE AUTHORITY WERE
36 STORED IN A LOCATION THAT BETTER ENABLES THE AUTHORITY TO FULFILL THE
37 PURPOSES AND POLICIES OF THIS CHAPTER THAN WERE THE LONG-TERM STORAGE CREDITS
38 EXCHANGED BY THE AUTHORITY. FOR THE PURPOSES OF THIS PARAGRAPH, THE
39 AUTHORITY MAY MAKE EXCHANGES OF LONG-TERM STORAGE CREDITS STORED IN ONE
40 ACTIVE MANAGEMENT AREA FOR LONG-TERM STORAGE CREDITS STORED IN A DIFFERENT
41 ACTIVE MANAGEMENT AREA OR OF LONG-TERM STORAGE CREDITS STORED IN ONE
42 GROUNDWATER BASIN FOR LONG-TERM STORAGE CREDITS STORED IN A DIFFERENT
43 GROUNDWATER BASIN.

1 6. THE AUTHORITY SHALL DISTRIBUTE OR EXTINGUISH LONG-TERM STORAGE
2 CREDITS ACCRUED WITH MONIES COLLECTED IN ACCORDANCE WITH SECTION 45-611,
3 SUBSECTION C, PARAGRAPH 3 ONLY FOR THE BENEFIT OF THE ACTIVE MANAGEMENT AREA
4 IN WHICH THE MONIES WERE COLLECTED. THE AUTHORITY MAY DISTRIBUTE OR
5 EXTINGUISH THESE LONG-TERM STORAGE CREDITS TO IMPLEMENT THE SETTLEMENT OF
6 WATER RIGHT CLAIMS BY INDIAN COMMUNITIES IN THIS STATE OR, ON REQUEST FROM
7 THE DIRECTOR, TO MEET THE WATER MANAGEMENT OBJECTIVES SET FORTH IN CHAPTER
8 2 OF THIS TITLE.

9 7. THE AUTHORITY SHALL DISTRIBUTE LONG-TERM STORAGE CREDITS ACCRUED
10 WITH MONIES DEPOSITED IN THE FUND IN ACCORDANCE WITH SECTION 48-3715.03,
11 SUBSECTION B ONLY FOR THE BENEFIT OF THE COUNTY IN WHICH THE MONIES WERE
12 COLLECTED. THE AUTHORITY SHALL DISTRIBUTE THESE LONG-TERM STORAGE CREDITS
13 TO CAWCD TO THE EXTENT NECESSARY TO MEET THE DEMANDS OF CAWCD'S MUNICIPAL AND
14 INDUSTRIAL SUBCONTRACTORS DURING TIMES IN WHICH CAWCD'S DIVERSIONS FROM THE
15 COLORADO RIVER HAVE BEEN OR WILL BE DISRUPTED BY SHORTAGES ON THE COLORADO
16 RIVER OR BY DISRUPTIONS IN OPERATION OF THE CENTRAL ARIZONA PROJECT.

17 C. ANY OTHER LONG-TERM STORAGE CREDITS ACCRUED BY THE AUTHORITY MAY
18 BE DISTRIBUTED OR EXTINGUISHED BY THE AUTHORITY IN ACCORDANCE WITH THE POLICY
19 AND PURPOSES OF THIS CHAPTER.

20 D. EXCEPT AS PROVIDED BY SUBSECTION B, PARAGRAPH 7 OF THIS SECTION AND
21 EXCEPT AS PROVIDED BY AGREEMENTS ENTERED INTO BY THE AUTHORITY, THE DECISION
22 TO DISTRIBUTE OR EXTINGUISH ANY LONG-TERM STORAGE CREDIT ACCRUED BY THE
23 AUTHORITY IS AT THE COMPLETE DISCRETION OF THE AUTHORITY.

24 ARTICLE 4. INTERSTATE WATER BANKING

25 45-2471. Interstate water banking agreements

26 A. THE AUTHORITY MAY NEGOTIATE AND ENTER INTO INTERSTATE WATER BANKING
27 AGREEMENTS WITH APPROPRIATELY AUTHORIZED AGENCIES IN CALIFORNIA AND NEVADA,
28 IF ALL OF THE FOLLOWING APPLY:

- 29 1. THE PROVISIONS OF SECTION 45-2427, SUBSECTION C HAVE BEEN MET.
30 2. THE DIRECTOR AND AT LEAST TWO OTHER VOTING MEMBERS OF THE
31 COMMISSION VOTE IN AGREEMENT TO ENTER INTO AN INTERSTATE BANKING AGREEMENT.
32 3. THE AUTHORITY SHALL NOT ENTER INTO AGREEMENTS WITH CALIFORNIA AND
33 NEVADA AGENCIES THAT REQUIRE THE AUTHORITY TO REDUCE ARIZONA DIVERSIONS FROM
34 THE COLORADO RIVER MORE THAN A TOTAL OF ONE HUNDRED THOUSAND ACRE-FEET OF
35 WATER IN ANY ONE YEAR.

36 4. NO INTERSTATE BANKING AGREEMENT MAY BE INCONSISTENT WITH THE
37 DECREE.

38 B. IN EACH INTERSTATE WATER BANKING AGREEMENT, THE AUTHORITY MAY AGREE
39 TO STORE COLORADO RIVER WATER IN ARIZONA SO THAT THE STORED WATER MAY BE USED
40 IN PLACE OF ARIZONA DIVERSIONS FROM THE COLORADO RIVER IN YEARS IN WHICH THE
41 CALIFORNIA OR NEVADA AGENCY REQUESTS WATER FROM THE AUTHORITY.

42 C. IN EACH INTERSTATE WATER BANKING AGREEMENT, THE CALIFORNIA OR
43 NEVADA AGENCY SHALL AGREE TO PAY TO THE AUTHORITY ALL COSTS THAT ARE OR WILL
44 BE INCURRED BY THE AUTHORITY IN STORING AND RECOVERING COLORADO RIVER WATER

1 PURSUANT TO THE INTERSTATE BANKING AGREEMENT. THE COSTS INCLUDE ALL OF THE
2 FOLLOWING:

3 1. THE COST OF ACQUIRING COLORADO RIVER WATER.

4 2. THE COST OF DELIVERING THAT COLORADO RIVER WATER THROUGH THE
5 CENTRAL ARIZONA PROJECT TO A STORAGE FACILITY, INCLUDING FEES FOR THE
6 OPERATION, MAINTENANCE, PUMPING ENERGY AND CAPITAL COSTS OF THE CENTRAL
7 ARIZONA PROJECT AS ESTABLISHED BY CAWCD.

8 3. AMOUNTS EQUIVALENT TO TAXES ORDINARILY PAID BY CAWCD SUBCONTRACTORS
9 AND THEIR CUSTOMERS TO PAY FOR THE REPAYMENT, OPERATION AND MAINTENANCE COSTS
10 OF THE CENTRAL ARIZONA PROJECT, TO THE EXTENT THOSE EQUIVALENT AMOUNTS ARE
11 NOT COLLECTED BY PARAGRAPH 8 OF THIS SUBSECTION.

12 4. THE COST OF STORING THAT COLORADO RIVER WATER.

13 5. THE COST OF CONSTRUCTING, OPERATING AND MAINTAINING A STORAGE
14 FACILITY TO THE EXTENT THAT FACILITY STORES WATER FOR THE CALIFORNIA OR
15 NEVADA AGENCY.

16 6. THE COST OF RECOVERING THE STORED WATER AND DELIVERING IT TO
17 COLORADO RIVER WATER USERS IN THIS STATE TO USE IN PLACE OF COLORADO RIVER
18 WATER THAT WOULD OTHERWISE BE USED.

19 7. A FEE EQUIVALENT TO THE APPROXIMATE AMOUNT OF ADMINISTRATIVE, LEGAL
20 AND TECHNICAL EXPENSES INCURRED BY THE AUTHORITY IN STORING WATER FOR THE
21 CALIFORNIA OR NEVADA AGENCY, RECOVERING THAT STORED WATER AND MAKING AN
22 EQUIVALENT AMOUNT OF COLORADO RIVER WATER AVAILABLE TO THE CALIFORNIA OR
23 NEVADA AGENCY.

24 8. ANY FEE PAID IN LIEU OF TAXES PURSUANT TO SECTION 48-3715,
25 SUBSECTION B BY THE AUTHORITY IN ACQUIRING THE WATER TO BE STORED.

26 D. IN EACH WATER BANKING AGREEMENT, THE AUTHORITY SHALL AGREE THAT IN
27 YEARS IN WHICH THE CALIFORNIA OR NEVADA AGENCY REQUESTS RECOVERY OF WATER
28 STORED IN ARIZONA, THE AUTHORITY SHALL CAUSE A DECREASE IN ARIZONA DIVERSIONS
29 FROM THE COLORADO RIVER BY THE AMOUNT OF WATER REQUESTED FOR RECOVERY BY THE
30 CALIFORNIA OR NEVADA AGENCY, THUS CREATING UNUSED ENTITLEMENT FOR DELIVERY
31 TO THAT AGENCY BY THE UNITED STATES SECRETARY OF THE INTERIOR PURSUANT TO
32 ARTICLE II(B)(6) OF THE DECREE. THESE BANKING AGREEMENTS MAY PROVIDE THAT
33 DURING YEARS WHEN THE SECRETARY OF THE INTERIOR HAS DECLARED A SHORTAGE ON
34 THE COLORADO RIVER, NO DECREASE IN ARIZONA DIVERSIONS SHALL BE REQUIRED.

35 E. EACH INTERSTATE BANKING AGREEMENT SHALL SPECIFY THAT IF THE
36 CALIFORNIA OR NEVADA AGENCY BREACHES THE TERMS OF THE AGREEMENT THE AUTHORITY
37 SHALL CEASE CREATING UNUSED ENTITLEMENT FOR THAT ENTITY UNTIL THE BREACH IS
38 CURED.

39 45-2472. Distribution of long-term storage credits

40 A. THE AUTHORITY MAY DISTRIBUTE LONG-TERM STORAGE CREDITS ACCRUED
41 THROUGH THE USE OF MONIES PAID BY CALIFORNIA AND NEVADA AGENCIES PURSUANT TO
42 INTERSTATE BANKING AGREEMENTS TO CAWCD OR OTHER USERS OF COLORADO RIVER WATER
43 IN THIS STATE, IF BOTH OF THE FOLLOWING APPLY:

1 1. CAWCD OR OTHER WATER USER AGREES TO USE THE LONG-TERM STORAGE
2 CREDITS TO REPLACE DIVERSIONS THAT OTHERWISE WOULD HAVE BEEN MADE FROM THE
3 COLORADO RIVER.

4 2. CAWCD OR OTHER WATER USER AGREES TO REDUCE ITS DIVERSION OF
5 COLORADO RIVER WATER IN YEARS IN WHICH THE AUTHORITY IS OBLIGATED TO RECOVER
6 STORED WATER ON BEHALF OF A CALIFORNIA OR NEVADA AGENCY IN AN AMOUNT
7 EQUIVALENT TO THE LONG-TERM STORAGE CREDITS DISTRIBUTED.

8 B. THE AUTHORITY MAY PAY FROM THE MONIES COLLECTED FROM THE CALIFORNIA
9 OR NEVADA AGENCY IN THE BANKING FUND TO CAWCD OR OTHER USERS OF COLORADO
10 RIVER WATER THAT HAVE AGREED TO REDUCE DIVERSIONS FROM THE COLORADO RIVER IN
11 ACCORDANCE WITH SUBSECTION A THE AMOUNT NECESSARY TO COMPENSATE CAWCD OR
12 OTHER WATER USER FOR INCREASED COSTS INCURRED IN RECOVERING AND USING THE
13 STORED WATER IN PLACE OF DIVERTING COLORADO RIVER WATER.

14 Sec. 17. Section 48-3710, Arizona Revised Statutes, is amended to
15 read:

16 48-3710. Organization of board; oath; bond; Arizona water
17 banking authority

18 A. Not later than thirty days after appointment of the initial board,
19 and after each election for directors, the board shall meet and select a
20 president, vice-president and a secretary from its membership. Each director
21 shall qualify by taking and subscribing an official oath of office as
22 prescribed by title 38, and executing a bond to the state in an amount of ten
23 thousand dollars conditioned for the faithful performance of the duties of
24 his office.

25 B. THE PRESIDENT OF THE BOARD SHALL SERVE OR APPOINT A REPRESENTATIVE
26 TO SERVE ON THE ARIZONA WATER BANKING AUTHORITY COMMISSION. IF THE PRESIDENT
27 APPOINTS A REPRESENTATIVE, THAT REPRESENTATIVE SHALL SERVE ON THE ARIZONA
28 WATER BANKING AUTHORITY COMMISSION UNTIL REMOVED BY THE PRESIDENT.

29 Sec. 18. Section 48-3713, Arizona Revised Statutes, is amended to
30 read:

31 48-3713. Powers of district

32 A. The district, acting through its board, shall:

33 1. Enter into a contract or contracts with the secretary to accomplish
34 the purposes of this chapter.

35 2. Provide for the repayment of construction costs, interest and
36 annual operation, maintenance and replacement costs allocated to the district
37 and payment of administrative costs and expenses of the district.

38 3. Levy an annual tax to defray district costs and expenses and to
39 effect repayment of a portion of the district's obligation to the United
40 States. Such tax levy shall not exceed ten cents per each one hundred
41 dollars of assessed valuation of the taxable property within the district.

42 4. Establish and cause to be collected charges for water consistent
43 with federal reclamation law and contracts entered into between the district
44 and the secretary pursuant to this chapter.

1 5. Cooperate and contract with the secretary to carry out the
2 provisions of the reclamation act of June 17, 1902 (32 Stat. 388), and acts
3 amendatory thereof or supplementary thereto, including the Colorado river
4 basin project act (82 Stat. 885).

5 6. Establish and maintain reserve accounts in amounts which may be
6 required by any contract between the district and the secretary and in such
7 additional amounts as may be deemed necessary to accomplish the purposes of
8 this chapter.

9 7. COORDINATE AND COOPERATE WITH THE ARIZONA WATER BANKING AUTHORITY.

10 B. The district, acting through its board, may:

11 1. Contract with the United States to be the operating agent of the
12 central Arizona project and to maintain all or portions of the project and
13 subcontract with others for the operation or maintenance of portions of the
14 project.

15 2. Acquire in any lawful manner real and personal property of every
16 kind necessary or convenient for the uses and purposes of the district.

17 3. Acquire electricity or other forms of energy necessary for the
18 operation of the central Arizona project.

19 4. Contract for or perform feasibility studies of water storage,
20 storage facilities and recovery wells.

21 5. Acquire, develop, construct, operate, maintain and acquire permits
22 for water storage, storage facilities and recovery wells pursuant to title
23 45, chapter 3.1 using surplus central Arizona project water.

24 6. Enter into contracts to acquire, permit, develop, construct,
25 operate and maintain water storage, storage facilities and recovery wells
26 with any person pursuant to title 45, chapter 3.1. Such projects may utilize
27 water, including central Arizona project water, which such persons have the
28 right to store pursuant to title 45, chapter 3.1.

29 7. Plan, analyze, propose, apply for, construct, operate, maintain and
30 dismantle state demonstration projects for water storage and recovery under
31 title 45, chapter 3.1, article 6.

32 8. Acquire real property for state demonstration projects for water
33 storage and recovery under title 45, chapter 3.1 by purchase, lease,
34 donation, dedication, exchange or other lawful means in areas suitable for
35 demonstration projects for water storage and recovery of state water in
36 counties in which the district has water transportation facilities.

37 9. Advance monies necessary for the installation, construction,
38 repair, maintenance or replacement of capital improvements related to any
39 water storage, storage facilities and recovery wells or any other
40 replenishment activities of the district undertaken pursuant to article 4 of
41 this chapter. Monies advanced under this paragraph bear interest as
42 determined by the board. Repayment of the advances shall be amortized over
43 the useful life of the capital improvements, as determined by the board.
44 Utilization of excess capacity in a state demonstration project for

1 replenishment purposes pursuant to section 48-3772, subsection B, paragraph
2 8 does not constitute the advancement of monies under this paragraph.

3 10. Advance monies for the payment of the operation and administrative
4 costs and expenses of the district relating to performance of the groundwater
5 replenishment obligations under article 4 of this chapter and including
6 reasonable reserves. Monies advanced under this paragraph shall bear
7 interest as determined by the board. Repayment of the advances may be
8 amortized over a reasonable period, as determined by the board.

9 11. Assign to the account of the district at fair value long-term
10 storage credits, as defined in section 45-802.01, held by the district.

11 12. PROVIDE TECHNICAL AND OPERATIONAL SUPPORT TO THE ARIZONA WATER
12 BANKING AUTHORITY AND SHALL BE REIMBURSED BY THE ARIZONA WATER BANKING
13 AUTHORITY FOR PROVIDING THAT SUPPORT.

14 C. The authority granted under title 45, chapter 3.1, article 6 does
15 not authorize the district to withdraw and use groundwater that exists
16 naturally in the basin in which the stored water is located. The authority
17 provided in subsection B, paragraph 7 of this section is in addition to and
18 distinct from any authority granted to the district by subsection B,
19 paragraphs 5 and 6 of this section.

20 D. The functions of the district under subsection B, paragraph 5 of
21 this section may be performed on behalf of the district by other persons
22 under contract with the district.

23 E. The district may enter into and carry out subcontracts with water
24 users for the delivery of water through the facilities of the central Arizona
25 project. Such contracts as may be entered into between the district and the
26 secretary and between the district and water users shall be subject to the
27 provisions of the Colorado river basin project act (P.L. 90-537; 82 Stat.
28 885). Before entering into such contracts the district shall determine that
29 the proposed contract or proposed amendment, and all related exhibits and
30 agreements, have been submitted to the director as required by section
31 45-107, subsection D.

32 F. The district may not sell, resell, deliver or distribute
33 electricity to others. However, the district may, in conjunction with any
34 other marketing entity or entities, be a marketing entity under section 107
35 of the Hoover power plant act of 1984 (P.L. 98-381; 98 Stat. 1333) solely for
36 the limited purposes of establishing and collecting the additional rate
37 components authorized by that act and may enter into contracts for that
38 purpose. This subsection does not limit the authority of the district under
39 subsection B, paragraph 3 of this section and does not prohibit the United
40 States western area power administration or the Arizona power authority from
41 making incidental disposition of power acquired by the district for purposes
42 of operating the central Arizona project but not needed by the district for
43 such purposes.

1 Sec. 19. Section 48-3713.01, Arizona Revised Statutes, is amended to
2 read:

3 48-3713.01. Additional authority and limitations regarding
4 water storage

5 A. Except for water storage undertaken for replenishment purposes
6 pursuant to article 4 of this chapter AND WATER STORAGE UNDERTAKEN IN
7 COOPERATION WITH THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO TITLE 45,
8 CHAPTER 14, water storage undertaken by the district pursuant to section
9 48-3713, subsection B, paragraph 5 shall be limited to that which benefits
10 holders of central Arizona project water services subcontracts.

11 B. The charges to be assessed to the purchasers of water recovered
12 pursuant to title 45, chapter 3.1 shall include the cost of acquiring,
13 developing, constructing, operating and maintaining the water storage.

14 C. The revenues obtained pursuant to subsection B of this section
15 shall be placed into a separate account by the district. Revenues shall be
16 used to offset the levy of the district pursuant to section 48-3715 on a
17 schedule adopted by the district to the extent that revenues from levies made
18 pursuant to section 48-3715 were used to acquire, develop, construct, operate
19 or maintain the water storage.

20 D. Water storage of central Arizona project water by the district
21 pursuant to this section is limited to water which would otherwise not be
22 delivered to central Arizona project subcontractors for direct use. ~~and~~
23 ~~such water shall not be purchased by the district at a price less than the~~
24 ~~price of equivalent central Arizona project agricultural water delivered at~~
25 ~~the same site including the full fixed operation and maintenance cost.~~

26 E. In connection with the development and operation of water storage,
27 the district may acquire outside of an active management area by purchase,
28 donation, dedication, exchange or other lawful means, except by eminent
29 domain, authority to recover stored water pursuant to title 45, chapter 3.1.

30 F. The district may enter into an intergovernmental agreement,
31 pursuant to title 11, chapter 7, article 3, with the county in which any
32 property, or interest in property, acquired under this section is located to
33 require the district to pay to the county contributions in lieu of taxes on
34 the property, or interest in property. The amount of the contribution shall
35 be determined according to the procedures in section 42-257. If the district
36 and the county have entered into such an intergovernmental agreement, the
37 property, or interest in property, acquired under this subsection is deemed
38 to be taxable property in the county only for purposes of determining the
39 county's levy limit under section 42-301 and the distribution of state
40 transaction privilege tax revenues to the counties under section 42-1341,
41 subsection C, paragraph 3, subdivision (a), item (i).

42 G. The district may expend any money received to pay any cost of
43 acquisition, development, construction, operation and maintenance for water
44 storage, storage facilities and recovery wells authorized pursuant to this

1 section from sources including district taxes, bond proceeds from bonds
2 authorized pursuant to section 48-3713, subsection B, paragraph 5 and
3 municipal and industrial water service contract revenues not otherwise
4 pledged to other obligations of the district.

5 H. The board may authorize, issue and sell negotiable revenue bonds
6 to provide monies to acquire, develop, construct, operate and maintain by
7 purchase or lease any water storage, storage facilities and recovery wells
8 authorized by section 48-3713, subsection B, paragraph 5. The bonds may be
9 in one or more series and may be secured by revenues received pursuant to the
10 contracts authorized by this section or section 48-3713.02. The district
11 shall not have outstanding at any one time bonds issued pursuant to this
12 section having an aggregate par value in excess of thirty-five million net
13 of original use discount and any reserve and sinking funds securing said
14 bonds. The bonds may have different dates, be payable in a medium and at
15 different places, have reserve or sinking funds, carry registration
16 privileges, bear a rate or rates of interest which may vary from time to
17 time, but which shall not exceed twelve per cent per annum, contain terms,
18 covenants and conditions, be in a form, be executed in a manner and sold at
19 prices as the board may prescribe. The issuer may assign its interest in any
20 or all revenues, contracts and reserve or sinking funds securing any bonds
21 to a bank or trust company doing business in this state that shall act as
22 indenture trustee. The resolution of the board or the trust indenture
23 authorizing the issuance of the bonds may contain such covenants, conditions
24 and provisions as the board deems necessary to secure the bonds. The board
25 is also authorized to purchase credit or liquidity enhancement and to expend
26 bond proceeds or contract revenues to aid such purchase. The board is
27 authorized, in its discretion, to employ such consultants, experts or agents
28 and to expend bond proceeds or contract revenues to pay any and all fees and
29 expenses of bond issuance and administration.

30 I. Bonds issued under the provisions of this section shall be legal
31 investments for all banks, trust companies and insurance companies organized
32 and operating under the laws of this state. The bonds and interest thereon
33 shall be paid solely in accordance with their terms and shall not be
34 obligations general, special or otherwise of this state or any political
35 subdivision other than the issuer. The issuer shall not in any event be
36 liable for the payment of the principal of or interest on the bonds from any
37 source of revenues other than those pledged for the payment of the bonds.
38 The holder of the bonds shall never have the right to compel any exercise of
39 the taxing power of the state, any political subdivision thereof or the
40 issuer to provide for payment of the bonds or to pay any claim arising of any
41 nature with respect to the issuance or sale of the bonds. The bonds shall
42 never be construed to constitute an indebtedness of the issuer within the
43 meaning of any constitutional or statutory debt or spending limitations.

1 Sec. 20. Section 48-3713.02, Arizona Revised Statutes, is amended to
2 read:

3 48-3713.02. Additional authority regarding water storage

4 A. The district may enter into a contract with the state, THE ARIZONA
5 WATER BANKING AUTHORITY, a county, a municipality or another person to
6 develop, acquire, construct, operate or maintain water storage, storage
7 facilities and recovery wells pursuant to title 45, chapter 3.1 on behalf of
8 the state, THE ARIZONA WATER BANKING AUTHORITY, A county, A municipality or
9 ANY other person. With respect to such agreements or contracts, the state,
10 THE ARIZONA WATER BANKING AUTHORITY, A county, A municipality or ANY other
11 persons shall pay all costs relating to such water storage, storage
12 facilities and recovery wells, including their proportional share of the
13 costs that the district incurred under section 48-3713.01.

14 B. The contract shall contain the further provision that use of
15 central Arizona project facilities for any purpose under this section shall
16 not interfere with deliveries to central Arizona project subcontractors for
17 direct use.

18 C. Any contract executed by the district under this section with a
19 central Arizona project subcontractor shall contain the provision that in any
20 year in which the amount of Colorado river water available for delivery to
21 central Arizona project subcontractors is one million five hundred thousand
22 acre-feet or less, central Arizona project water allocated to the
23 subcontractor to be used for any water storage under this section will be
24 limited to water which would otherwise not be delivered for direct use to
25 other central Arizona project subcontractors, except that after December 31,
26 1993, central Arizona project water allocated to the subcontractor to be used
27 for any water storage under this section will be limited to water which would
28 otherwise not be delivered for direct use to other central Arizona project
29 subcontractors serving water in the same active management area. Nothing in
30 this subsection shall be construed to affect the subcontract rights of
31 central Arizona project subcontractors.

32 D. The contract may include a provision to require the district to pay
33 to the county contributions in lieu of taxes on any property, or interest in
34 property, acquired under this section. The amount of the contribution shall
35 be determined according to the procedures in section 42-257. If the contract
36 contains such a provision, the property, or interest in property, acquired
37 under this section is deemed to be taxable property in the county only for
38 purposes of determining the county's levy limit under section 42-301 and the
39 distribution of state transaction privilege tax revenues to the counties
40 under section 42-1341, subsection C, paragraph 3, subdivision (a), item (i).

1 Sec. 21. Section 48-3715, Arizona Revised Statutes, is amended to
2 read:

3 48-3715. Tax levy

4 A. On or before the second Monday in August of each year, the clerk
5 of the county board of supervisors of each county within the district shall
6 certify to the district board the total assessed valuation of all taxable
7 property in the county. On or before the third Monday in August of each
8 year, the district board shall fix the amount to be raised by direct taxation
9 for the purpose of carrying out the provisions of this chapter, and shall
10 levy a tax sufficient to raise such amount. Such tax shall not exceed ten
11 cents on each one hundred dollars of assessed valuation in the district. The
12 district board shall forthwith certify such tax rate to the board of
13 supervisors of each county within the district, which boards at the time of
14 levying general county taxes shall levy and cause to be collected taxes on
15 the taxable property within such county at the tax rate fixed by the district
16 board. The tax when collected shall be paid to the state treasurer and be
17 credited to the district fund to be expended by the district only for
18 purposes authorized by this chapter, which shall include costs and expenses
19 of administration.

20 B. The district board shall charge and collect a fee in lieu of taxes
21 paid pursuant to subsection A for each acre-foot of central Arizona project
22 water purchased or leased and delivered to or credited to a purchaser or
23 lessee. The amount of this fee shall be computed by dividing the sum of the
24 taxes levied in each county within the district pursuant to subsection A in
25 the year in which the fee is charged by the amount of Colorado river water
26 available for diversion into the central Arizona project as determined by the
27 secretary during that year. This fee does not apply to:

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

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

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

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

41 5. THE ARIZONA WATER BANKING AUTHORITY IF THAT AUTHORITY IS ACQUIRING
42 WATER THAT WILL BE USED FOR THE BENEFIT OF THOSE PERSONS PRESCRIBED IN THIS
43 SUBSECTION.

1 Sec. 22. Section 48-3715.02, Arizona Revised Statutes, is amended to
2 read:

3 48-3715.02. Tax levy for water storage

4 A. Until January 1, 1997, the following applies:

5 1. On or before August 19, 1991, August 17, 1992, August 16, 1993,
6 August 15, 1994 and August 21, 1995 the district board shall fix the amount
7 to be raised by direct taxation in the respective tax year for the purpose
8 of carrying out section 48-3713, subsection B, paragraphs 7 and 8 and shall
9 levy a tax, based on the assessed valuation certified under section 48-3715,
10 sufficient to raise that amount, except that this tax shall not:

11 (a) Exceed four cents per one hundred dollars of assessed valuation
12 in the district.

13 (b) Be levied in any county in the district in which the annual water
14 allocation by the United States secretary of the interior of central Arizona
15 project water for municipal and industrial uses is less than fifty thousand
16 acre-feet.

17 2. The district board shall certify the tax rate to the board of
18 supervisors of each county in the district in which the district board levies
19 this tax, and the boards of supervisors at the time of levying general county
20 taxes shall levy and cause to be collected taxes on the taxable property in
21 the county at the tax rate fixed by the district board. The tax when
22 collected shall be paid to the state treasurer and shall be credited to the
23 state water storage fund established by section 45-897.01. All taxes levied
24 pursuant to this section in counties having a population greater than five
25 hundred thousand but less than one million five hundred thousand persons
26 according to the most recent United States decennial census shall be
27 deposited in account A of the fund established by section 45-897.01. All
28 taxes levied pursuant to this section in counties having a population greater
29 than one million five hundred thousand persons according to the most recent
30 United States decennial census shall be deposited in account B of the fund.

31 ~~B. Beginning January 1, 1997, the following applies:~~

32 ~~1-~~ B. BEGINNING IN 1996, in addition to the tax authorized in
33 sections 48-3713 and 48-3715, on or before the second Monday in August of
34 each year, the district board shall fix the amount to be raised by direct
35 taxation in the respective tax year for the purpose of carrying out section
36 48-3715.03 and shall levy a tax based on the assessed valuation certified
37 under section 48-3715 sufficient to raise that amount, except that this tax
38 shall not exceed four cents per one hundred dollars of assessed valuation in
39 the district.

40 ~~2-~~ C. The district board shall certify the tax rate FIXED PURSUANT
41 TO SUBSECTION B OF THIS SECTION to the board of supervisors of each county
42 in the district, and the boards of supervisors at the time of levying general
43 county taxes shall levy and cause to be collected taxes on the taxable
44 property in the county at the tax rate fixed by the district board. The tax

1 when collected shall be paid to the state treasurer and shall be credited to
2 the multi county water storage fund established by AS PRESCRIBED BY section
3 48-3715.03. All taxes levied pursuant to this section in counties having a
4 population of more than five hundred thousand but less than one million five
5 hundred thousand persons according to the most recent United States decennial
6 census shall be deposited in account A of the fund established by section
7 48-3715.03. All taxes levied pursuant to this section in counties having a
8 population greater than one million five hundred thousand persons according
9 to the most recent United States decennial census shall be deposited in
10 account B of the fund. All taxes levied pursuant to this section in counties
11 having a population of less than five hundred thousand persons according to
12 the most recent United States decennial census shall be deposited in account
13 C of the fund.

14 Sec. 23. Laws 1994, chapter 278, section 14, is amended to read:

15 Section 48-3715.02, Arizona Revised Statutes, as amended by this act,
16 is repealed from and after January 1, 2001 2017.

17 Sec. 24. Section 48-3715.03, Arizona Revised Statutes, is amended to
18 read:

19 48-3715.03. Arizona water banking fund; disbursement of monies

20 A. ~~The multi county water storage fund is established in the state~~
21 ~~treasury. The district shall administer the fund as provided in this~~
22 ~~section. The multi county water storage fund shall be divided into three~~
23 ~~accounts, one account for the benefit of counties that are in the district~~
24 ~~and that have a population of more than five hundred thousand but less than~~
25 ~~one million five hundred thousand persons, one account for the benefit of~~
26 ~~counties that are in the district and that have a population of more than one~~
27 ~~million five hundred thousand persons and one account for the benefit of~~
28 ~~counties that are in the district and that have a population of less than~~
29 ~~five hundred thousand persons, according to the most recent United States~~
30 ~~decennial census. These accounts shall be referred to respectively as~~
31 ~~accounts A, B and C. The fund and the accounts within the fund consist of~~
32 ~~monies appropriated by the legislature and taxes levied pursuant to section~~
33 ~~48-3715.02, subsection B after December 31, 1996. Monies appropriated by the~~
34 ~~legislature shall be credited to the separate accounts as provided by the~~
35 ~~legislature. Taxes levied pursuant to section 48-3715.02, subsection B shall~~
36 ~~be credited to the separate accounts based on the county in which the taxes~~
37 ~~are collected as provided in section 48-3715.02. Monies in the fund are~~
38 ~~exempt from lapsing under section 35-190. Interest earned on monies in the~~
39 ~~fund shall be credited to the fund and to the separate accounts in proportion~~
40 ~~to the balance of each account.~~

41 B. ~~Except as provided in subsection C of this section, the fund shall~~
42 ~~be used to pay capital, operation, maintenance and other costs, including the~~
43 ~~costs of excess central Arizona project water, of underground storage and~~
44 ~~recovery projects operated by the district pursuant to permits issued under~~

1 ~~title 45, chapter 3, article 1. Monies from each account shall be used~~
2 ~~pursuant to this subsection only for underground storage and recovery~~
3 ~~projects located in the county that is to benefit from that account.~~

4 ~~C. A. The district's board of directors may order by resolution that~~
5 ~~all or any part of the monies then in or thereafter deposited or credited to~~
6 ~~the fund SHALL ANNUALLY DETERMINE BY RESOLUTION WHETHER ALL OR ANY PART OF~~
7 ~~THE TAX LEVIED PURSUANT TO SECTION 48-3715.02, SUBSECTIONS B AND C SHALL be~~
8 ~~applied to the repayment of the construction costs of the central Arizona~~
9 ~~project including interest owed on district repayment contracts or to the~~
10 ~~annual operation, maintenance and replacement costs of the central Arizona~~
11 ~~project. If WHEN the district's board adopts such a resolution, and delivers~~
12 ~~a certified copy OF THE RESOLUTION SHALL BE DELIVERED to the state~~
13 ~~treasurer, AND those monies SPECIFIED IN THE RESOLUTION shall be transferred~~
14 ~~to the district for deposit DEPOSITED in the district fund established~~
15 ~~pursuant to section 48-3712, subsection A, paragraph 5. The district's board~~
16 ~~of directors may amend the resolution from time to time or may rescind the~~
17 ~~resolution at any time after its adoption.~~

18 B. ANY TAXES THAT ARE LEVIED PURSUANT TO SECTION 48-3715.02,
19 SUBSECTIONS B AND C AND THAT ARE NOT DEPOSITED IN THE DISTRICT FUND
20 ESTABLISHED PURSUANT TO SECTION 48-3712, SUBSECTION A, PARAGRAPH 5 SHALL BE
21 DEPOSITED BY THE STATE TREASURER IN THE ARIZONA WATER BANKING FUND
22 ESTABLISHED BY SECTION 45-2425.

23 Sec. 25. Modification of second management plans; procedures

24 The director of water resources may modify a management plan adopted
25 by the director's final order of adoption for the second management period
26 for an active management area to modify the augmentation fund and grant
27 program to conform with this act. The modification may be made without
28 complying with any requirements prescribed in section 45-572, Arizona Revised
29 Statutes. Notice of the modification shall be given by first class mail to
30 the last known address of the person prescribed in section 45-564, subsection
31 B, paragraph 2, Arizona Revised Statutes. If the director modifies the
32 management plan pursuant to this section, the modification is effective on
33 the date of the order modifying the management plan. The director's decision
34 under this section is not subject to administrative or judicial review.

35 Sec. 26. Appropriation; purpose

36 The sum of \$2,000,000 is appropriated from the state general fund for
37 fiscal year 1996-1997 to the Arizona water banking fund established by
38 section 45-2425, Arizona Revised Statutes, to carry out the purposes of this
39 act.

40 Sec. 27. Arizona water banking authority study commission

41 A. The Arizona water banking authority study commission is
42 established. The purpose of the commission is to:

