ARIZONA WATER BANKING AUTHORITY

INTRODUCTION

The Arizona Water Banking Authority (AWBA) was created in 1996 to complement the management efforts of Colorado River water in Arizona (Laws 1996, Chapter 308). Prior to the creation of the AWBA, Arizona was underutilizing its full 2.8 million acre-foot (af)\(^1\) share of water from the Colorado River. Therefore, as part of its original statutory purpose, the AWBA is required to coordinate and confer with the other entities to “bank,” or store, the unused portion of Colorado River water to meet its contractual and statutory obligations.

In order to increase the utilization of Arizona’s Colorado River water entitlement, the AWBA stores Central Arizona Project (CAP) water to protect Arizona municipal and industrial (M&I) water users against future water shortages on the Colorado River and against disruptions in canal operations. The AWBA, through its Commission, is required by statute to firm, or secure, water supplies for those users and purposes. To achieve this, the AWBA annually pays the delivery and storage costs to bring water into the Central Arizona Water Conservation District’s (CAWCD)\(^2\) three county service area (Maricopa, Pinal and Pima). The water is stored in underground aquifers using underground storage facilities or is used by irrigation districts in lieu of pumping groundwater through groundwater savings facilities. Regardless of the storage method, long-term storage credits (LTSC) accrue and are held in accounts administered by the Arizona Department of Water Resources (ADWR).

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\(^1\) Water volume is measured in acre-feet. An acre-foot is approximately 325,851 gallons, which is the volume that would cover one acre of land to the depth of one foot. An acre-foot can supply the household needs of two, four-person families for one year.

\(^2\) The CAWCD is a tax-levying public improvement district of the state that manages and operates the Central Arizona Project canal.
The AWBA’s statutory and contractual obligations also include the firming of water sources for Indian water settlements and fulfilling interstate water banking agreements with Nevada and California. These responsibilities are discussed in greater detail later in this brief.

The AWBA is governed by a five-member Commission comprised the following: a) three members appointed by the Governor based upon specified statutory criteria; b) the president of the CAWCD or their designee; and c) the ADWR Director, who serves as chairman. The President of the Arizona State Senate and Speaker of the House of Representatives, or their respective designees, also serve on the Commission as two nonvoting, ex-officio members (A.R.S. § 45-2421).

The AWBA is required by statute to publish an annual report by July 1 of each year of its previous year’s transactions and proceedings. Additionally, by January 1 of each year, the AWBA is required to publish a Plan of Operation that governs its operations over the course of that calendar year. The AWBA also must prepare a Ten-Year Plan that details projected water banking activities.

**AWBA FUNDING**

The AWBA is funded primarily from two sources. As part of AWBA’s enabling legislation, Arizona’s Groundwater Code was amended to authorize the ADWR Director to levy an annual groundwater pumping fee in the Phoenix, Pinal and Tucson Active Management Areas (AMAs)\(^3\) for intrastate water banking purposes. A.R.S. § 45-613 specifies that the monies must be used to benefit the AMA in which they were collected, and thus must be deposited into the respective county subaccounts of the Water Banking Fund.

In addition to withdrawal fees, the AWBA may receive monies derived from a four cent ad valorem property tax collected by the CAWCD in its three county service areas. The CAWCD is authorized to levy this tax through 2016 and is required to deposit monies in either its District Fund to cover certain CAP costs associated with AWBA activities or into the respective county subaccounts of the Water Banking Fund. The CAWCD has not deposited monies into county subaccounts since 2003 and, instead, has used the levy to offset the cost of AWBA water deliveries in the tri-county CAWCD service area.

The AWBA may also receive state General Fund appropriations as part of its funding sources at the discretion of the Legislature.

**RELATIONSHIP WITH ADWR AND CAWCD**

Although ADWR is statutorily required to provide administrative, technical and legal support to the AWBA, the AWBA is a state agency unto itself and, accordingly, its finances and operations are separate and distinct from those of ADWR. An administrative subaccount to the Water Banking Fund, funded by interest earnings, is used to reimburse ADWR for these positions and other administrative services provided.

Additionally, the AWBA coordinates with CAWCD for technical support needs, as well as the purchase, delivery and storage of Colorado River water delivered through the canal. Like ADWR, CAWCD is reimbursed for those services requested by the AWBA.

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\(^3\) The Arizona Groundwater Code designates five Active Management Areas (Phoenix, Prescott, Pinal, Santa Cruz, and Tucson) where there is a heavy reliance on mined groundwater. Each AMA has management requirements relating to the pumping and use of groundwater, including a series of increased water conservation phases over the course of specified time periods. (See A.R.S. § 45-611).
ACCESS TO EXCESS CAP WATER

The AWBA traditionally has purchased CAP water when excess supplies are available. Excess CAP supplies may exist once CAWCD has fulfilled water demand obligations for its higher priority users. The U.S. Secretary of the Interior’s 1983 Record of Decision (Decision) outlined a priority system for the allocation of CAP water based on the following four classes of water: 1) M&I, 2) Indian, 3) non-Indian agriculture (NIA), and 4) miscellaneous. The Decision specified that in times of shortage, miscellaneous uses would be eliminated first, followed by NIA uses. Excess CAP water is the most junior priority within the CAP water priority hierarchy and, as such, it will be the first supply to be reduced if a shortage is declared on the Colorado River.

The CAWCD has water contracts with municipal users, irrigation districts, Indian tribes, and private water companies to name a few, and those contractors and subcontractors have a higher priority to receive CAP water than the AWBA.

In 2010, the Legislature clarified AWBA’s participation in two potential pools of excess water made available by the CAWCD for intrastate and interstate water banking purposes (Laws 2010, Chapter 168). The legislation specified that the first pool made available by CAWCD would be used to meet AWBA’s intrastate water obligations. This does not change AWBA’s existing authority to store CAP water for interstate banking purposes. Additionally, the second pool would be created from the acquisition of new CAP water using AWBA interstate funds. Because AWBA is last in line to receive CAP water, this allows the AWBA to order water ahead of other Arizona users to meet interstate contractual obligations, provided that water is an additional Colorado River supply that is created and purchased with monies derived from an interstate agreement [A.R.S. § 45-2427(E)(2)].

INDIAN FIRMING

In 2004, President Bush signed the Arizona Water Settlements Act (Settlements Act), which resolved several Indian water rights claims in the state. The Arizona Legislature subsequently enacted a series of bills from 2005 through 2007 to implement the Settlements Act and further defined Arizona’s rights and obligations under the federal law (Laws 2005, Chapter 143; Laws 2006, Chapter 114; Laws 2007, Chapter 249; Laws 2007, Chapter 286). The AWBA, in cooperation with ADWR and CAWCD, is the State of Arizona’s agent for meeting Indian firming obligations under the Settlements Act.

Among its provisions, the Settlements Act required Arizona and the federal government to develop a firming program to ensure that NIA priority CAP water is delivered to Indian tribes in times of shortage to the same degree that higher priority CAP M&I water is delivered during shortages. In this way, firming improves the reliability of a tribe’s water supply by supplementing the lower priority water that, in times of drought or other shortage, would be curbed first to protect the availability of other higher priority supplies.

The Settlements Act recognizes three categories where the State has firming responsibilities: 1) ensure up to 15,000 af per year of CAP NIA priority water be available to the Gila River Indian Community; 2) firm up to 8,724 af per year of CAP NIA priority water for other Indian Settlements; and 3) contribute $3 million in cash or in-kind services to assist the Secretary in meeting the Federal obligation to the Tohono O’odham Nation (completed in 2012). In addition, because there are outstanding water rights claims and ongoing negotiations with other Arizona tribes, the
AWBA could incur additional future firming responsibilities beyond those identified in the Settlements Act.

As part of the 2006 legislation, the AWBA was authorized to use General Fund appropriations and withdrawal fees to satisfy the State’s firming commitment. The Legislature that year also appropriated $13.5 million to the AWBA for Indian firming, but $12.4 million of that amount was transferred back to the state in 2008. Although there is currently no dedicated funding source for Indian firming, the Legislature permitted the AWBA to purchase LTSC, including for the purpose of Indian firming, if excess CAP water has been stored or is otherwise unavailable (Laws 2014, Chapter 126).

**INTERSTATE BANKING AGREEMENT WITH NEVADA**

The AWBA is authorized to enter into interstate water banking agreements with California and Nevada to assist those states in meeting future water needs (A.R.S. § 45-2471 et seq.). The AWBA, on behalf of the state, cannot enter into an interstate banking agreement without the consent of the ADWR Director and at least two Commissioners who have voting authority.

Arizona entered into an interstate water storage agreement (Agreement) with Nevada in 2001 and began storing water for Nevada in 2005. The parties to the Agreement are the AWBA, the Southern Nevada Water Authority (SNWA) and the Colorado River Commission of Nevada. The Agreement contractually obligates the AWBA to store water that otherwise would not be utilized by water users in Arizona in an amount sufficient to develop a total of 1.25 million af of LTSC. These LTSC would be recovered to develop Intentionally Created Unused Apportionment for Nevada as a temporary supply of water to allow Nevada to develop other long-term water supplies.

In 2004, Nevada began exploring alternative methods to meet their water needs and approached Arizona with a proposal to amend the Agreement in such a manner that Nevada’s water supply could be made more secure in the shorter term. The Amended Agreement for Interstate Water Banking (Amended Agreement) approved by the AWBA Commission on December 9, 2004, and executed on February 3, 2005, contained several changes that: 1) recognizes additional water sources to obtain LTSC; 2) requires Nevada to pay the full cost of water delivery, storage and recovery of LTSC, in addition to $100 million to mitigate the risk of guarantee; and 3) identifies a set schedule for recovery of LTSC.

In January 2009, the SNWA requested an opportunity to discuss potential modifications to the Agreement to address conditions that had changed since its execution and to create flexibility in its implementation. On April 1, 2009, the AWBA approved and executed the Second Amended Agreement for Interstate Water Banking (Second Amended Agreement). Although the Second Amended Agreement provides flexibility in administering the contract, it does not change the provisions requiring Nevada to pay the full cost of storage and recovery, nor Arizona’s obligation to create 1.25 million af of LTSC for Nevada.

**ADDITIONAL RESOURCES**

- **Arizona Water Banking Authority**
  3550 N. Central Avenue, 2nd Floor
  Phoenix, Arizona 85012
  Phone: (602) 771-8487
  [http://www.azwaterbank.gov/awba](http://www.azwaterbank.gov/awba)

- **Arizona Department of Water Resources**
  3550 N. Central Avenue, 2nd Floor
  Phoenix, Arizona 85012
  Phone: (602) 771-8426
  [www.azwater.gov/](http://www.azwater.gov/)
Arizona Revised Statutes, Title 45, Chapter 14

AWBA 2012 Annual Report

AWBA 2013 Plan of Operations

Arizona Water Settlement Act of 2004 (Public Law 108-451)

Second Amended Agreement for Interstate Water Banking

“Arizona’s Groundwater Management Code: Active Management Areas”
Senate Issue Brief
www.azleg.gov/briefs.asp