

ARIZONA STATE SENATE

46TH LEGISLATURE
FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON NATURAL RESOURCES AND TRANSPORTATION

DATE: April 24, 2003 **TIME:** 9:30 a.m. **ROOM:** SHR 1

CHAIRMAN: Senator Binder **VICE CHAIRMAN:** Senator Jarrett

ANALYST: Kerri Morey **COMMITTEE SECRETARY:** Tracey Moulton
Sean Laux

INTERN: Summer Woodson **ASSISTANT ANALYST:** Tracey Landers

ATTENDANCE

BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Allen	X			SJR 1002	DISCUSSION ONLY
Senator Arzberger	X				
Senator Blendu	X				
Senator Brown	X				
Senator Cannell	X				
Senator Jarrett, Vice Chairman		X			
Senator Binder, Chairman	X				

GOVERNOR'S APPOINTMENTS

Chairman Binder called the meeting to order at 9:40 a.m., and roll call was taken.

CONSIDERATION OF BILLS

SJR 1002 – declaring an emergency; Arizona’s forests (now: Colorado river surplus guidelines) – DISCUSSION ONLY

Kerri Morey, Natural Resources and Transportation Committee Research Analyst, explained SJR 1002 authorizes the Arizona Department of Water Resources (ADWR) to enter into an agreement with the Metropolitan Water District (MWD) of Southern California to waive Arizona's right to surplus water from the Colorado River until December 31, 2016 and allows the surplus water to be delivered instead to California. In exchange, MWD agrees to reduce its use of Colorado River water and implement water conservation measures to protect Arizona from future shortages on the river either during or after the fifteen year contract period. The contract period actually began in January 2002. If a shortage is declared, MWD must reduce its use of Colorado River water by up to 1 million-acre feet (MAF) and direct that water for use within the State of Arizona.

Tom McCann, Attorney, Central Arizona Project (CAP), testified that this legislation is a re-enactment of legislation from two years ago, of an agreement that was in place in 2001 that expired. It expired because California failed to complete their Quantification Settlement Agreement (QSA) by the end of last year, as required. He noted the interim surplus period began in 2002 and was interrupted at the end of 2002 because California had not complied with the QSA deadline. Consequently, this year California is being held to their limit of 4.4 MAF. He remarked that California is in the process of negotiating their QSA. He stated that in order for California to work toward reducing water usage to their limit of 4.4 MAF, they would have to use “interim surplus water.” He stated that for the next 14 years, the Secretary of the Interior would declare surplus water amounts at storage levels a little bit below where they have traditionally been declared. When the water level is below what used to be surplus, within the new Interim Surplus Guidelines (ISG) California and Nevada get some extra water. Arizona is agreeing that it will not take any surplus water, unless the water level is at the traditional surplus level. He remarked that CAP is the main entity that will take surplus water and put it to use. He opined that this is important legislation that will help California get back to using its limit of 4.4 MAF, which in the long run will be beneficial to Arizona.

Senator Cannell asked if the surplus water that California has been using is going to be addressed in this legislation. Mr. McCann explained that by the law of the river, the surplus water that Arizona did not use was clear for California to use. This became a habit for California and now that Arizona is using all of its allotment, California is finding it difficult to cut back their use accordingly.

Senator Binder asked how much surplus water California received in 2002. Mr. McCann estimated that it received 600-650 thousand AF. Senator Binder asked if Arizona could have recharged the surplus water and used it. Mr. McCann stated that Arizona could not have used all of the water. He noted that without the interim surplus being in effect, that water never would have been released from storage.

Senator Binder asked what steps would be taken to ensure that Arizona is not harmed by the arrangement and has the “wet water” when it is needed and that there will not be any federal interference when Arizona tries to collect from MWD.

Herb Guenther, Director, ADWR, stated that this agreement prevents Arizona from being harmed. If California signs the ISG agreement, upon which the contract in this legislation is contingent, MWD would hold Arizona harmless for the first 1 MAF shortage. He stated that in order to do this, California will likely “bank” that water, as it already has done in Arizona. That is what ADWR would prefer. This would allow Arizona to take that “wet water” when it is needed. If California does not “bank” the water, the ISG that is currently in effect provides for the re-distribution of surplus water. This agreement is memorialized in the ISG, therefore the Secretary of the Interior will allocate water based upon what the ISG says.

Senator Binder stated that Arizona is willing to agree to a reduction in its delivery of surface water, when water would otherwise have been used for recharge by one of the river contractors. She asked if Mr. Guenther knew which contractors would be impacted by the surplus reduction and how the State would determine this. Mr. Guenther stated that anyone that had a 1968 priority or lower could be impacted to some degree, but noted, that as Mr. McCann stated, a more liberal definition of surplus will be used for the purposes of California and Nevada. That will mean that in years when there might not normally be a surplus, the Secretary of Interior will declare a surplus for California and Nevada’s use, and not Arizona. He stated that this does not harm Arizona, as it would not have been receiving any surplus under normal circumstances. He stated that if the make-believe or “interim surplus water” is placed in a hydrological model, the potential impact for Arizona receiving shortages in the foreseeable future is immeasurable. But because there is a modicum of chance that there would be an increased shortage at some point in time due to these events, the ISG agreement was negotiated to protect Arizona in the event of a shortage, by California holding Arizona harmless with 1 MAF.

Senator Binder asked if it was known which entity would be “hit” in the event of a reduction. Mr. Guenther stated that rather than a “hit”, it is called a forbearance of a surplus. He stated that just as the “interim surplus water” is make-believe, so is the impact. He stated that there are what is called surplus year contracts that are usually priority 6 and priority 5. Cibola has a surplus contract for approximately 4,000 AF per year; Mohave County Water Authority currently has a 3,500 AF of priority 5 water, but that is in the process of being upgraded to priority 4 water, under the Gila River Indian Settlement. He noted that the Yucca Power Plant in Yuma has a surplus contract for a small amount of water that is a back up supply to their other supplies, which involve ground water and nuisance waters. He remarked that the Mohave Valley Irrigation and Drainage District also has a surplus ground contract for low priority water.

In response to Senator Blendu, Mr. Guenther stated that Arizona and the Colorado River Basin have been experiencing drought conditions for the last two years. Therefore, last year, there would not have been any surplus declared because the run off did not come off the Colorado River watershed. In order for Arizona to impose its drought shortages on other states, the Colorado River operating guidelines would have to be changed, which would require seven basin states to agree to do so. Additionally, the “Law of the River” would have to be adjusted to change the assignments of surplus, which would be extremely difficult to do. Currently, Arizona has the best of both worlds and has a redundant system with the Salt and Gila rivers, excellent ground water reservoirs to back up that supply and the CAP, which has the ability to bring 2 MAF into central Arizona off the Colorado River. He stated that while it is easy to see why the State would want to hold other States to a tighter standard than what is currently done, it is necessary to weigh in the political potential on the system, including both electoral votes and the votes in Congress. Middle ground should be the goal to allow

the State to keep the system defused, so that water issues do not become political between Nevada, California and Arizona.

In response to Senator Blendu, Mr. Guenther stated that an "acre foot" is twelve inches of water on 1 acre of ground or approximately 325,000 gallons.

Senator Binder remarked that budget cuts to ADWR have adversely impacted their staff. She noted that ADWR has gone from 214 employees to 160 and has lost an extraordinary amount of institutional knowledge. She commented that it is prudent for the Legislature to keep ADWR at the 2002 budgetary level. She suggested that a letter to the Appropriation Chairmen may be in order for a request to keep budgetary cuts to ADWR at the 2002 level.

Mr. Guenther commented that one of his goals is to find a source of funding for ADWR with some funding mechanism other than the general fund, to avoid the rollercoaster of starting a program and getting staff up to speed and then staff is terminated and the program is discontinued. He opined that this is not an efficient way to manage a State resource as important as water. He stated that a surcharge or user fee of some type should be dedicated for funding to keep ADWR better stabilized.

Representative O'Halleran testified in support of the draft amendment (Attachment A). He stated that the amendment is critical to the legislation and will allow California the water it needs to supplement its supply in an agreed upon time frame and fashion, versus attempting the same goal through political means, in which case Arizona would be at a disadvantage.

Referring to the budget process, Representative O'Halleran opined that the process is terrible. He stated that the way people were treated was bad, as well as the way agencies were treated. He opined that the level of prioritization has not been dealt with in a proper fashion.

Senator Binder announced the individuals who registered their position on the presentation (Attachment B).

Without objection, the meeting adjourned at 10:30 a.m.

Respectfully submitted,

Tracey Moulton
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room, 115.)

Committee on Natural Resources
And Transportation
April 24, 2003