

COMMITTEE ON AGRICULTURE AND WATER

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.J.R. 2002

(Reference to printed joint resolution)

1 Strike everything after the resolving clause and insert:

2 "Whereas, the State of Arizona maintains a sovereign interest in the
3 water of the Colorado river, represented by the contract between the United
4 States of America and the State of Arizona that was executed February 24,
5 1944 and ratified by the Legislature in Laws 1944, chapter 4; and

6 Whereas, the State of Arizona's rights in the Colorado river were
7 further confirmed by the decree of the United States Supreme Court in the
8 matter of Arizona v. California, including the right to divert 2.8 million
9 acre-feet of Colorado river water for consumptive use in the State of Arizona
10 in normal years, plus forty-six per cent of any surplus water made available
11 by the secretary of the interior under the terms of the decree; and

12 Whereas, the Secretary of the Interior exercises authority with respect
13 to the management of the Colorado river dams and reservoirs pursuant to the
14 Boulder Canyon Project Act of 1928, the Colorado River Project Storage Act of
15 1956 and the Colorado River Basin Project Act of 1968 and other acts
16 amendatory or supplementary thereto; and

17 Whereas, the Secretary of the Interior exercises the authority to
18 declare surplus conditions in the lower Colorado river mainstream and to make
19 quantities of surplus water available to Colorado river water contractors
20 under the terms of the decree in Arizona v. California; and

21 Whereas, on December 13, 2007, the Secretary of the Interior signed the
22 Record of Decision; Colorado River Interim Guidelines for Lower Basin
23 Shortages and the Coordinated Operations for Lake Powell and Lake Mead, which
24 provides for a concept known as intentionally created surplus, in which a
25 state can supplement the lower Colorado river mainstream and then divert
26 additional lower Colorado river water as surplus; and

27 Whereas, the International Boundary and Water Commission is considering
28 adopting a minute that, among other things, would allow Colorado river
29 entitlement holders in Arizona, California and Nevada to form partnerships
30 with Mexico for the purpose of supplementing the lower Colorado river
31 mainstream to create intentionally created surplus; and

1 Whereas, the Secretary of the Interior must adopt supplemental
2 guidelines to allow Colorado river entitlement holders in Arizona, California
3 and Nevada to create intentionally created surplus through projects located
4 in Mexico; and

5 Whereas, diversion of the intentionally created surplus must be
6 consistent with the decree in Arizona v. California, necessitating a
7 forbearance of rights to intentionally created surplus water among lower
8 division states; and

9 Whereas, the State of Arizona recognizes that benefits to the Colorado
10 river mainstream accrue to Arizona water users from the supplementing of
11 river supplies through intentionally created surplus, and no Arizona water
12 user will be adversely affected by Arizona's forbearance of a portion of the
13 intentionally created surplus added to the Colorado river mainstream; and

14 Whereas, the effectiveness of such forbearance agreements is dependent
15 on approval by the Arizona Legislature by concurrent resolution under section
16 45-106, Arizona Revised Statutes; and

17 Whereas, the State of Arizona must act both through the Arizona
18 Legislature and the Governor by this joint resolution to forbear the exercise
19 of a right accruing to the benefit of the state under the 1944 Colorado river
20 water contract and the decree in Arizona v. California; and

21 Whereas, it is in the best interest of the State of Arizona to
22 authorize the director of the department of water resources to forbear its
23 rights to use a portion of intentionally created surplus water arising out of
24 projects in Mexico that further protect Arizona's interests in the water of
25 the Colorado river in surplus, normal and shortage years.

26 Therefore

27 Be it resolved by the Legislature of the State of Arizona:

28 1. That, notwithstanding any other provision of law, the State of
29 Arizona, by and through the director of the department of water resources,
30 may forbear its rights to the use of certain quantities of intentionally
31 created surplus from the Colorado river that are created through partnerships
32 between Colorado river entitlement holders in Arizona, California or Nevada
33 and Mexico and that would otherwise be available for use within the State of
34 Arizona under the 1944 Colorado river water contract and the decree in
35 Arizona v. California, if the commissioners of the International Boundary and
36 Water Commission execute a minute to the 1944 Treaty between the United
37 States of America and Mexico, in which Mexico agrees to reduce its deliveries

1 of Colorado river water in the same years that deliveries of Colorado river
2 water to Arizona are reduced due to shortage and which allows Colorado river
3 entitlement holders in Arizona, California and Nevada to form partnerships
4 with Mexico for the purpose of supplementing the lower Colorado river
5 mainstream to create intentionally created surplus.

6 2. That, notwithstanding any other provision of law, the director of
7 the department of water resources, on behalf of the State of Arizona, is
8 authorized to enter into an agreement in substantially the same form as the
9 Supplemental Lower Colorado River Basin Intentionally Created Surplus
10 Forbearance Agreement to forbear the State of Arizona's rights to certain
11 quantities of intentionally created surplus from the Colorado river that
12 would otherwise be available for use in the State of Arizona under the 1944
13 Colorado river water contract and the decree in Arizona v. California.

14 3. That if the director of the department of water resources finds
15 that Arizona water users will not be adversely affected by the forbearance by
16 Arizona of its right to additional intentionally created surplus, the
17 director of the department of water resources, on behalf of the State of
18 Arizona, is authorized to enter into additional agreements with lower
19 Colorado river contractors to forbear additional intentionally created
20 surplus, in substantially the same form and with substantially the same
21 conditions as in the agreement authorized in the foregoing paragraph.

22 4. That this action is being taken in response to unique and
23 extraordinary circumstances."

24 Amend title to conform

and, as so amended, it do pass

RUSSELL L. JONES
Chairman

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