State of Arizona

Department of Water Resources

www.azwater.gov

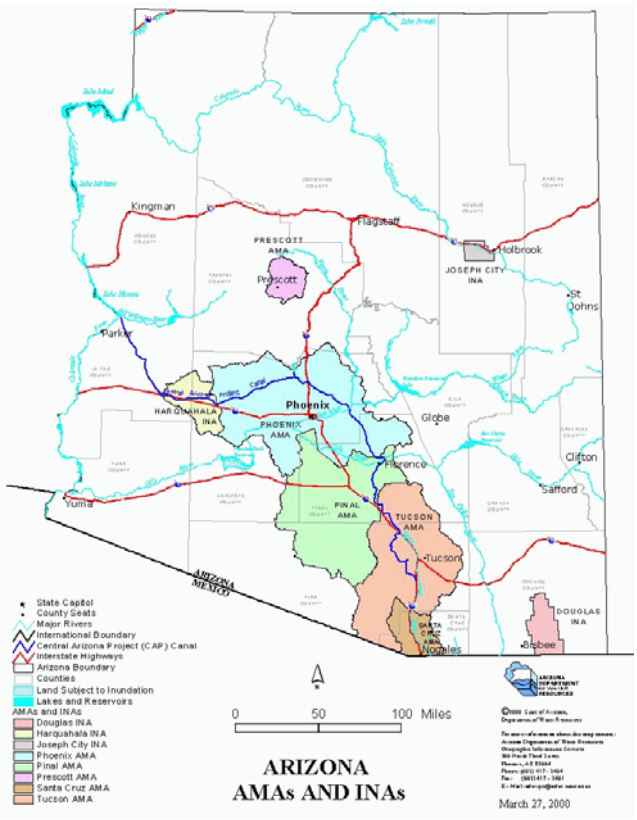
ANNUAL REPORT

July 1, 2005

TABLE OF CONTENTS

EXECUTIVE SUMMARY

The Arizona Department of Water Resources (ADWR) manages the State's water supply. Water management includes a wide variety of activities that are intended to protect and preserve the water supplies. Examples of these activities include licensing well drillers, assuring the safety of dams and developing mandatory conservation requirements for all water use sectors, to protecting the State's Colorado River allocation and facilitating Indian water rights negotiations among tribal representatives, local interests, federal and state officials and members of Congress. This wide range of responsibilities, in combination with the evolving and complex nature of the legal and political arena in which water management is conducted, has created a challenging environment for ADWR. For the last 25 years, ADWR has been quick to respond to changing conditions, to identify key strategic moves to protect the State's interests and to respond to legislative directives. Arizona's water supply is more secure today than it was 25 years ago as a result of the institutional knowledge of ADWR staff and the partnerships forged with Arizona's water users and water providers.



The landmark 1980 Groundwater Management Code (Code) created ADWR. The Legislature enacted the Code to relieve the problem of groundwater overdraft in parts of Arizona that were designated as Active Management Areas (AMAs). ADWR's groundwater management structure within the AMAs has received national and international acclaim. In more recent times, additional praise has been focused on ADWR's leadership in underground storage and recovery (recharge) programs, the establishment of the Arizona Water Banking Authority (AWBA), and the Assured Water Supply (AWS) Program that requires proof of a 100-year water supply before a subdivision plat can be approved by the platting entity.

The primary mission of ADWR is to ensure an adequate quantity and quality of water for Arizona's future. Challenges to providing a sustainable water supply are numerous. By 2025, when the Code requires key management goals to be met, the projected population of the State will exceed 6 million within the AMAs and 1.8 million in the rest of the State. This represents a 280 percent population increase in the AMAs alone since 1980. Competition for water throughout the southwest continues to increase as neighboring states experience similar rates of growth; Arizona must continue to be vigilant to protect its water rights, particularly its rights to Colorado River water. It is essential that our State continue to play a prominent role in Colorado River negotiations.

Arizona's water also supports a number of Indian tribes whose legal rights to quantities of water currently are in negotiation as part of the adjudication of water rights within the State. The outcome of these settlement negotiations will significantly impact the State's water budget. In addition to water supply needs for human use, environmental protection issues are of substantial concern and may affect Arizona's future water supply availability.

The water needs of Arizona's rural areas, where few renewable supply options exist, are becoming urgent. The persistent drought has caused several small communities, where wells have gone dry, to import water by truck. Drought will continue as a key concern in this desert State. With the likelihood of increased climatic variability, floodplain management and dam safety activities may become even more critical than they are today. ADWR published a statewide drought and conservation plan for the Governor's Drought Task Force to address the growing concerns about water shortages. ADWR also held five workshops on Colorado River shortages to discuss the impacts of potential shortages to Arizona's Colorado River supply. The Governor held four "Water Listening Sessions" to give the public an opportunity to voice their concerns about Arizona water issues. The heightened concerns about Arizona's water resources led to the passage of legislation that requires all community water systems to annually report water uses, prepare water system plans

to ensure continuously available water supplies and prepare water conservation plans. ADWR is required to assist the communities with the reporting and plans to ensure that the water supplies for all of Arizona are monitored and managed.

Substantial progress has been made within central Arizona in moving toward a sustainable water future, particularly in transitioning the urban demand from a primarily non-renewable groundwater-based supply to increasing dependence on the Colorado River and effluent. ADWR's long-term view of water management needs has served the State well.

AGENCY PURPOSE

ADWR manages the water supplies within the State and represents the State in local, regional, national and international water policy matters.

Mission/Vision Statement

The Mission/Vision Statement of ADWR is:

- To ensure a long-term, safe, sufficient and secure water supply for the State
- To develop public policies that promote the efficient use and equitable distribution of water in an environmentally sound manner
- To promote the management of floodplains and dams to reduce loss of life and damage to property

AGENCY GOALS

ADWR adopted the following goals to support the Mission/Vision Statement:

Protect and Fully Utilize Arizona's Colorado River entitlement and other renewable water supplies.

Programs to protect our Colorado River water supply include the recently enacted Lower Colorado River Multi-Species Conservation Program (MSCP) and the shortage sharing stakeholder process. The MSCP provides 50 years of Endangered Species Act (ESA) compliance for diversions from the Colorado River. ADWR spearheaded development of the MSCP, and will continue to be involved in implementation and management of the Program. Drought conditions have increased the probability of future reductions in Colorado River water supplies for Arizona. ADWR is working with Arizona stakeholders to develop recommendations regarding shortage implementation criteria, to manage future impacts to municipal, industrial and agricultural water users. ADWR is also responsible for programs to fully utilize Arizona's Colorado River supply.

The three programs that have the greatest effect on increasing the use of Colorado River water are the Recharge Program, the AWBA and the AWS Program. The Recharge Program, established in 1986, encourages Colorado River water and effluent to be stored underground for future use. This Program regulates the development of storage and recovery facilities, protects the ownership of stored water and provides technical assistance in developing recharge facilities. Over three million acre-feet (maf) of water have been stored since 1986. Three major units within ADWR, Hydrology, Legal Division and Water Management, support the Recharge Program.

ADWR provides staffing and technical support to the AWBA. Since 1996, the AWBA has worked to store excess Central Arizona Project (CAP) water to benefit communities along the Colorado River, water users within the AMAs, Indian tribes and other states (with full protection of Arizona's water rights).

The AWS Program requires that all new subdivisions within AMAs demonstrate that they have a 100-year supply of water, of adequate quality and quantity, prior to plat approval (or be served by a water provider that has already made a similar demonstration). The AWS Rules, adopted by ADWR in 1995, require that the water used in this demonstration be primarily renewable. A major source of water for this demonstration is CAP water. The AWS Rules have been the primary driving force behind substantial investments in the use of CAP and effluent water for municipal supply. In addition, ADWR administers programs that encourage the use of CAP in lieu of groundwater. The pricing policies of the CAP have also expanded agricultural CAP water use. The Colorado River Office monitors all intra/inter-state activity related to the River, represents the State in technical and policy matters and ensures that Arizona's interests are protected.

To decrease mining of groundwater within the AMAs.

There are two components of the program for decreasing groundwater mining. The supply-side component focuses on replacing existing groundwater use with CAP water, other surface water or effluent through the recharge and AWS Programs. The demand-side component focuses on reductions in current and future water demand through conservation. The Code requires reductions in groundwater use and/or best management practices to ensure water use efficiency for the major water using sectors (agricultural, municipal and industrial) through regulations adopted within the Management Plans for each AMA. Measuring, reporting and conserving water are now required components of all large groundwater-using operations within AMAs. The Water Management Division also has a conservation, augmentation and monitoring assistance program within the AMAs that provides technical assistance and grants to encourage conservation, augmentation (primarily use of effluent, other renewable supplies and recharge) and increased monitoring of water supply conditions and land subsidence.

Ensure that dam design, construction, operation and maintenance are in compliance with State laws and current dam safety guidelines.

The Office of Engineering oversees dam safety operations and maintenance, and maintains a flood warning system for the State. Licensed professional engineers and other technical staff perform site inspections and ensure that unsafe dams are repaired to meet safety requirements.

Collect, analyze and disseminate high quality data in support of surface water and groundwater rights administration, hydrologic investigations, planning activities, inter-agency efforts and the Adjudication Courts and to prevent unauthorized uses of surface water and groundwater.

ADWR has management responsibilities for both groundwater and surface water. The Water Management Support Unit processes surface water rights claims, other than those along the Colorado River, and the AMAs manage the majority of the groundwater rights. Most water resource reports and assessments contain a hydrologic data component and the Hydrology Division collects, analyzes and reports on the majority of the surface and groundwater supply information in Arizona, often in collaboration with the U.S. Geological Survey. The Hydrology Field Services Section specializes in collecting groundwater levels, groundwater quality data and land subsidence information, followed by development of watershed and basin reports and hydrologic models. Water demand information is collected and reported on within the AMAs. Outside of the AMAs, the Statewide Conservation and Planning Division supports rural water management planning efforts, provides conservation and drought mitigation assistance and systematically collects water supply and water demand information.

The Legal Division also brings enforcement proceedings against individuals, who are not in compliance with the Code, ADWR Rules and AMA Management Plan regulations, and negotiates and facilitates Indian water right settlements. Historically, ADWR had a large Adjudications Section that was focused on producing the information required by the Courts in the Gila and Little Colorado River Adjudications. In the mid-1990's, this Section was eliminated due to legal impediments that slowed progress in the Adjudications. In the last three years, the Adjudication Courts have moved forward with increasing requests for assistance from ADWR.

Incorporate water quality objectives into water management in coordination with the Arizona Department of Environmental Quality.

ADWR has a very limited, but important, role in water quality issues. Current activities include well drilling, permitting and coordinating activities related to the Water Quality Assurance Revolving Fund (WQARF), the Environmental Protection Agency's Superfund requirements and some data collection and exchange. These activities are primarily within the Hydrology Division.

Managing ADWR's financial and staff resources to maximize efficiency and effectiveness.

The Office of Administration handles all financial and budget transactions.

The Human Resources Office performs all employee-related activities, including generating hiring lists and providing staff training.

The Information Technology Office provides computer systems operation and development, technical support and training, and network and website development and maintenance. ADWR is heavily focused on a transition to the use of technology to reduce costs, improve public access to information and increase productivity.

ARIZONA GROUNDWATER MANAGEMENT CODE

From its inception as a State, Arizona's courts have dealt with surface water and groundwater separately. Surface water maintained its pre-statehood allocation based on "first in time, first in right," or prior appropriation. Rights to percolating water, or groundwater, were governed by the common law rule that such water belongs to the overlying landowner. Threats to the water supplies of two of the State's major economic factions-mining and municipalities, and an ongoing threat by the Federal Government to halt the long awaited CAP, coupled with severe overdraft conditions in several parts of the State, led to the adoption of the Code.

The Code, passed in 1980, has three primary goals:

- To control the severe overdraft occurring in many parts of the State
- To provide a means to allocate the State's limited groundwater resources to most effectively meet the changing needs of the State
- To offset Arizona's use of groundwater through renewable water supply development

To accomplish these goals, the Code set up a comprehensive management framework and established ADWR to administer the Code provisions on three levels: statewide provisions, Irrigation Non-Expansion Areas (INAs) and AMAs. The AMAs have the highest degree of groundwater restrictions, focusing on conservation and management goals, while the INAs are prohibited from new irrigated acreage.

Statewide Provisions

Statewide regulatory programs and requirements managed by ADWR include well drilling, construction, licensing, registration and abandonment, groundwater transportation restrictions and, outside of AMAs, adequate water supply requirements. ADWR conducts testing for well drilling licenses and issues authorizations to drill for any well drilling and construction that occurs in the State. ADWR enforces groundwater transportation restrictions throughout the State and maintains the provisions of the water adequacy program outside of AMAs.

Irrigation Non-Expansion Areas

Three INAs were established in rural farming areas where the groundwater overdraft was less severe than in AMAs. The Douglas INA and the Joseph City INA were established as the initial INAs. The Harquahala INA was designated in 1982. The management objective in an INA is the prevention of further declines of groundwater supplies primarily through prohibition of irrigation acreage expansion. Any land not irrigated during the years 1975 through 1979 in the Douglas and Joseph City INAs, and during the years 1976 through 1980 in the Harquahala INA, cannot now be irrigated. Specific water conservation measures are not required within an INA, although it is hoped that all water users within INAs will conserve water where possible. ADWR generally does not regulate the quantity of water used within an INA, although water users are required to file for underground storage and recovery permits, file notice of intent to drill wells and obtain notices of irrigation authority to irrigate eligible lands. Also, owners of non-exempt wells must use approved measuring devices and submit annual groundwater pumping reports.

Active Management Areas

The magnitude of the overdraft in certain areas of the State led to the statutory designation of four initial AMAs. The Prescott, Phoenix, Pinal and Tucson AMAs, roughly the central region of the State, include 80 percent of Arizona's population and account for 70 percent of the groundwater overdraft. In 1994, a southern portion of the Tucson AMA was separately designated as the Santa Cruz AMA. Each AMA has a regional office and an AMA director.

The Phoenix, Prescott and Tucson AMAs are directed to achieve safe-yield by 2025. Safe-yield is defined as a long-term balance between the amount of groundwater withdrawn in an AMA and the amount of water naturally recharged to the aquifer, through either rainfall or runoff percolating into the aquifer or artificially through recharge projects. The management goal of the Pinal AMA calls for allowing the area's predominantly agricultural economy to continue for as long as feasible, consistent with the necessity to preserve future water supplies for non-irrigation use and allow for the development of non-irrigation uses by the municipal and industrial water use sectors. The management goal of the Santa Cruz AMA is to maintain a safe-yield condition and prevent local water tables from experiencing long-term declines.

The Code directs ADWR to develop and implement water conservation requirements for the agricultural, municipal and industrial water use sectors in five consecutive management periods. These requirements are published in a Management Plan for each AMA. These documents are required by the Code and are based on Code criteria. The Code generally requires that each consecutive management plan contain more rigorous water conservation and management requirements. Background information and data concerning water use patterns are also contained in the Management Plans. The Management Plans provide the framework for the day-to-day implementation of Code mandates and ADWR policies for each AMA.

Information from annual water use reports is used to estimate the volume of groundwater withdrawals, water stored and water recovered in an AMA. Water budgets are constructed from these data to illustrate the total supply and demand for a given year.

Current groundwater withdrawal authorities established in the Code, such as Irrigation Grandfathered Rights, Type 1 and Type 2 Non-Irrigation Grandfathered Rights, withdrawal permits and service area rights, plus groundwater allocations under the AWS Rules, play a major role in groundwater overdraft. To address this problem, water management efforts focus on ways to encourage water users to convert to renewable supplies. In the AMAs, these efforts include the Underground Storage and Recovery Programs and renewable supply utilization requirements under the AWS Rules.

Commission/Board Appointments & Terms

Water management policies are developed through extensive stakeholder participation in both formally and informally recognized arenas.

Groundwater Users Advisory Councils

The Groundwater Users Advisory Council (GUAC) is appointed by the Governor to represent the water users in the AMAs and to provide advice to the ADWR Director. Key statutory requirements include commenting on the annual groundwater withdrawal fee, the AWBA Annual Plan of Operation, the expenditure of funds in the Conservation, Augmentation and Monitoring Funds for the AMAs and the Management Plans.

Phoenix AMA	*Stephen Cleveland*	*Municipal*	*1/16/2006*
	Patricia Turpin	*General Public*	*1/18/2010*
	John Williams, Jr.	*Salt River Project*	*1/16/2006*
	F. Ronald Rayner	*Agriculture*	*1/21/2008*
	Frank Fairbanks	*Municipal*	*1/21/2008*
Pinal AMA	*Oliver Anderson*	*Agriculture*	*1/21/2008*
	David Snyder	*Municipal*	*1/16/2006*
	Paul Prechel	*Agriculture*	*1/16/2006*
	Steve Pretzer	*Agriculture*	*1/21/2008*
	David Snider	*Municipal*	*1/16/2006*
Prescott AMA	*Marvin Larson*	*Developer*	*1/21/2008*
	James Neal	*Private Citizen*	*1/21/2008*
	John Olson	*Agriculture*	*1/16/2006*
	Larry Tarkowski	*Municipal*	*1/16/2006*
	Carol Johnson	*Municipal*	*1/6/2011*
Santa Cruz AMA	*Simon Escalada*	*Developer, Rancher*	*1/17/2006*
	James Barr	*Developer*	*1/19/2010*
	Ron Fish	*Agriculture*	*1/21/2008*
	Roy Ross	*Developer*	*1/19/2004*
	Sherry Sass	*Friends of Santa Cruz*	*1/21/2008*
Tucson AMA	*Dee O'Neill*	*Homebuilder's Assoc.*	*1/19/2010*
	David Modeer	*Municipal*	*1/16/2006*
	John Mawhinney	*Private Citizen*	*1/16/2006*
	Jon Post	*Agriculture*	*1/21/2008*
	Charles Sweet	*Municipal*	*1/21/2008*

Agricultural Water Conservation Best Management Practices Advisory Committee

Governor Hull appointed the Agricultural Water Conservation Best Management Practices (BMP) Advisory Committee in September 2002, to advise the Director on the development of an BMP Program. The Legislature authorized the establishment of a BMP program in the 2002 legislative session. A BMP Program provides an alternative to the standard water allocation conservation program for farmers with Irrigation Grandfathered Rights.

Farmers	*Bryan Hartman* *F. Ronald Rayner* *Scott Riggins* *Ron Wong*
Irrigation Districts	*Stanley Ashby* *Grant Ward*
Salt River Project	*John Sullivan*
Municipal	*John (Bob) McCain*

Ex Officio	*Bert Clemmons (USDA Water Conservation Lab)* *Donald Butler (Department of Agriculture)* *Herb Guenther (Department of Water Resources)*

AGENCY ORGANIZATION

Office of the Director

The Office of the Director is comprised of the Director and support staff. It oversees the operations of ADWR, which has five key divisions: Water Management, Hydrology, Water Engineering, Information Technology Division and Statewide Conservation and Strategic Planning.

Legislative Summary

The Office of the Director coordinates and oversees the development and implementation of the legislative agenda. This year, a number of major water legislation passed.

HB 2174 Assured Water Supply; Fund; Committee (Chapter 217)
Prime Sponsor: Representative O'Halleran

Provisions

- Establishes an Assured and Adequate Water Supply Administration Fund. The Fund consists of the fees that are paid to the Arizona Department of Water Resources (ADWR) for applications relating to adequate and assured water supplies.
- States that the Fund monies are to be used for the costs and expenses incurred by ADWR when determining and declaring adequate and assured water supplies. The monies are subject to appropriation and are to be used by ADWR for the Adequate and Assured Water Supply Program.
- Requires ADWR to administer the Fund.
- Requires the Fund to be on a separate account on the books of ADWR.
- Exempts monies in the Fund from the lapsing of appropriations.
- Requires the State Treasurer to invest and divest monies in the Fund on notice from the Director of ADWR. All monies earned from investment will be credited to the Fund.
- Requires the Director to conduct a review of the Assured and Adequate Water Supply Rules in the Arizona Administrative Code for the purpose of making the application process more efficient.
- Requires the Director to submit a written report on the Director's recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives on or before December 15, 2005.
- Requires the Director to file a Notice of Proposed Rule Change by January 1, 2006, to initiate rulemaking proceedings according to the recommendations identified by the Director.

- Requires the Director to appoint an advisory committee to assist the Director in identifying statutory or rule changes to make the application process more efficient.

- Requires the advisory committee to include subdividers and water providers or their representatives.

Significance To Agency

ADWR lacks the resources to adequately staff the Assured and Adequate Water Supply Program. In the last six years, the workload in the program has grown significantly while ADWR's resources have declined. Since processing Assured and Adequate Water Supply applications is critical to the State's development industry, ADWR has drawn substantial resources from other water management programs, undermining the effectiveness of those programs. Even with the reassignment of staff, the processing time is lengthening and ADWR has been unable to adequately monitor and enforce the program. The inadequate level of monitoring has led to several short-term development moratoriums that could have been avoided. Based on current and projected development trends, the number of applications is expected to continue to increase.

ADWR believes that the Assured and Adequate Water Supply Program should be partly or fully self-supporting to enable it to function more effectively. ADWR would use these fees to support the staff and administration of the Assured and Adequate Water Supply Program. ADWR currently transmits the fees for Assured and Adequate Water Supply applications to the General Fund. HB 2174 allows ADWR to retain these fees to help to offset the costs of the program.

Required Outcome

Rule changes are anticipated. The Stakeholders Group will identify specific rules that will require modification.

Legislation is anticipated. Based on preliminary discussions, ADWR may not have the authority to change certain rules without statutory authority. The Stakeholders Group will identify specific statutes that will require amendments.

Preliminary discussions indicate that some aspects of the application process may be modified without a rule or statutory change. ADWR may be able to address these issue through a substantive policy change or by modifying internal processes administratively. The Stakeholders Group will identify processes and issues to help to improve program efficiency.

Actions Required

1. ADWR staff will meet internally to identify processes within the Assured Water Supply Program that can be eliminated or modified to improve the efficiency of the program, without jeopardizing the integrity of the Assured Water Supply Program.

2. ADWR staff will develop an outline of the issues identified by ADWR staff that will help to improve the efficiency of the Assured and Adequate Water Supply Program and discuss issues with the Director.

3. Open a rule making docket and publish notice of the docket opening with the Secretary of State.

4. ADWR staff makes recommendations to the Director regarding the composition of the Stakeholders Group that must include representatives of subdividers and water providers.

5. Director appoints group and sends a letter the week of May 9 confirming appointments to members of the Stakeholders Group.

6. An advance e-mail to Stakeholders to hold a date for the first meeting of the Stakeholders Group, which will be scheduled sometime during the week of May 23, will also be sent the week of May 9.

7. Agendas and background material will be sent the week of May 16 (approximately one week before the meeting).

8. The Stakeholders Group will hold its first meeting the week of May 23.

9. At the first meeting, Stakeholders will begin discussion of opportunities for improved efficiency.

10. The structure and number of meetings will be determined, based on the discussion at the first meeting of the Stakeholders Group.

11. Finalize recommendations for rule changes, statutory changes and administrative changes by first week in July and begin drafting the recommendations report.

12. Review a summary of the Stakeholders recommendations with Water Legislation Stakeholders Group the first week in August.

13. Submit legislative proposals to Governor's Office by August 15.

14. Provide draft rules and statutory language for review the first week in September.

15. Receive comments during the month of September.

16. Incorporate comments by the end of October.

17. Send out final draft in early November.

18. Secure legislative sponsor and open file with Legislative Council by November 15.

19. Incorporate final comments.

20. Submit final report of proposed statutory changes to the Governor, Speaker of the House and President of the Senate by December 15.

21. File a notice of proposed rule making with the Secretary of State by January 1, 2006.

Division Staff Support Required

- Director's Office/Legislative Liaison
- Office of Legal Services
- Hydrology Division
- Active Management Areas
- Assured and Adequate Water Supply

Timeline

2005
May

-Conduct internal discussions regarding program efficiency
-Appoint Stakeholders Advisory Committee
-Develop materials for first meeting
-Convene first Stakeholders meeting
-Determine process structure

June
-Stakeholders meet and develop recommendations (# of meetings TBA)

July
-Finalize recommendations first week in July

August
-Review recommendations with Water Legislation Stakeholders Group first week in August

September
-Provide draft rules and amendments for review
-Move to new office
-Receive comments on recommendations

October
-Incorporate comments

November
-Send out drafts for final review

December
-Finalize rule package

2006

January 1, 2006: File notice of proposed rule making with the Secretary of State

HB 2277 Water Providers; Community System Plans (Chapter 223)

Prime Sponsors: Representatives Hershberger, Landrum Taylor, O'Halleran

Provisions

Definition of Water System

- Defines *community water system* as a public water system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents. A *public water system* is one that provides water for human consumption (A.R.S. 49-325).

- Defines *large community water system* as a community water system that serves water to more than 1,850 persons.

- Defines *small community water system* as a community water system that does not qualify as a large community water system.

Water Plan

- Requires all community water systems to submit:
  -A water supply plan that describes their sources of water, service area, transmission system facilities, monthly system production data, historic demand for the past five years and projected demands for the next five, 10 and 20 years.
  -A drought preparedness plan that includes drought and emergency response strategies, a plan of action to respond to water shortage conditions and provisions to inform and educate the public.

-A water conservation plan that may include measures to control lost or unaccounted for water, consideration of water rate structures that encourage efficient use of water [as set by the community water system's governing body and subject to approval by the Arizona Corporation Commission (ACC)] and information and education on conserving water.

- Clarifies that the requirement for a water supply plan only includes community water systems and not water used for hard rock mining or metallurgical processes.

- Requires large community water systems to submit plans to the Director of ADWR by January 1, 2007 and small community water systems by January 1, 2008. Small community water systems (whether filing alone or jointly) may be given an extension by the Director if a request is submitted at least 90 days prior to the deadline.

- Exempts a small municipal provider from the requirement to submit a water conservation plan if the provider does the following:

  -Petitions the Director of the Arizona Department of Water Resources (ADWR) before January 1, 2007.
  -Shows that under reasonable growth projections they will be regulated as a large municipal water provider by January 1, 2012.

- Authorizes two or more water providers serving the same area to coordinate their efforts and submit a joint plan. The deadline for submitting a joint plan is the same as for small community water systems.

- Requires updates to the plans every five years. The Director is required to review the plans to determine if they are in compliance.

- Provides for disclosure of non-compliance to the governing body in the service area if a water provider does not comply within sixty days of a written notice from the Director regarding failure to submit a water conservation plan.

- Exempts a water system from submitting a water supply plan if the system has been designated as having an Assured Water Supply. The system still must submit a drought preparedness plan and a water conservation plan.

- States that water systems do not have to resubmit any information required by this legislation if it is already on file with ADWR.

- Requires the Director to prepare, and make available, forms for small water systems to complete and submit as their water plan. The Director must also develop a guidance document to assist community water systems in preparing a water system plan.

Records and Annual Report of Water Use

- Requires an annual report of water use from each water provider that includes information, if known, regarding sources of water, quantity of water pumped or diverted, well registration numbers, how the water was used, number of customers served and information on storage facilities. For *large community water systems* the report must also include a map of the service area and distribution system.

- Exempts community water systems located inside Active Management Areas (AMAs) from duplicate reporting requirements.

- Requires the Director to prepare blank forms and distribute them on a timely schedule and cooperate with the ACC and the Arizona Department of Environmental Quality (ADEQ) to facilitate the reporting of similar or identical information

Significance To Agency

Requiring communities to develop water supply plans, drought plans and conservation plans is an important step toward improving our ability to effectively manage our water resources, both at the state and local levels. The three key components of the legislation and the implications for water management are listed below.

Water Supply Plan

- Increase public awareness of water supplies at the state and local levels.
- Provide much needed data regarding our state's water supplies and water infrastructure.
- Describe existing local water supplies.
- Enable us to target our data collection in those areas that need the most support.
- Improve our ability to plan for our future water infrastructure needs so that we will have the resources available.

Drought Preparedness Plan

- Increase public awareness on local drought conditions and potential local responses.
- Improve drought planning to identify and mitigate drought conditions in the early stages to reduce the need for more costly and intrusive emergency response measures.
- Assure that our communities will be prepared to meet our citizens water needs in times of water shortage.
- Provide local flexibility to:
  - -Establish drought and emergency response stages to enable local communities to implement response measures.
  - -Develop a plan of action to respond to drought or water shortage conditions.
  - -Develop procedures for the enforcement of mandatory water use restrictions for residential and non-residential uses.
- Recognize that extraordinary hardships could result as a result of the plan and provide for variances in such cases.

Water Conservation Plan

- Ensure consistent, statewide conservation practices by all water users.
- Increase the efficiency of the water system to reduce potential drought-impacts or other water supply deficiencies
- Encourage consumer water conservation efforts.
- Provide an opportunity for local community residents to actively participate in safeguarding water supplies to sustain the economic viability of their community.

Required Outcomes

No rule changes are anticipated at this time.

Two issues may require legislative action:

-Limit public access to the service area maps for security purposes.
-Clarify reporting requirements related to effluent.

Preliminary discussions indicate that some aspects of the reporting and planning processes may need to be addressed without additional rule or statutory changes. ADWR will be able to address these issue through internal processes administratively.

Actions Required

1. Coordinate development of reporting requirements with ADEQ and the ACC to ensure reporting requirements and planning processes are not overly duplicative; use existing ACC/ADEQ reporting formats to the extent possible.

2. Develop annual report forms, review processes, and databases to track reporting.

3. Develop Water System Plan Guidance Document and a small system planning form in consultation with ADEQ, ACC and community water systems.

4. Develop internal review processes for plans.

Division Staff Support Required

- Director's Office
- Office of Legal Services
- Hydrology Division
- Active Management Areas
- Assured and Adequate Water Supply
- Office of Statewide Planning

Timeline

2005

May
-Meet with ACC and ADEQ to review reporting requirements for those agencies compared to requirements of HB2277. Need to determine how we will move forward, either a separate report or adding information needed to the reports currently submitted.
-Meet with ACC and ADEQ to review planning requirements for those agencies compared to requirements of HB2277. Develop a form for small community water systems to complete as their Water System Plans based on this discussion.
-Work with ACC and ADEQ to develop mailing list.

June
-Meet with stakeholders to review requirements and deadlines for annual reporting.
-Contact all community water systems detailing planning and annual reporting requirements.
-Draft the form for small community water systems to complete as their Water System Plans.
-Request review and comment by ACC and ADEQ.
-Coordinate with ACC regarding plan implementation for private water companies.
-Begin preparation of the **Water System Plan Guidance Document** to assist community water systems in preparing the water system plan.

July
-Continue stakeholder meetings to review requirements and deadlines.

August
-Finalize annual report for review of ACC and ADEQ.

-Coordinate development of Annual Reports with ADWR IT staff, considering input by ACC and ADEQ.
-Continue stakeholder meetings to review annual report requirements and deadlines.
-Conduct public workshops to solicit input from cities and towns, private water companies and irrigation districts that qualify as community water systems regarding the draft Water System
-Plan Guidance Document and the Small Community Water System Plan form.
-Revise Water System Plan Guidance Document and the Small Community Water System Plan form per local community input.
-Convene additional workshops, if necessary, to finalize the Guidance Document and Water System Plan form.

September
-Develop database for input of annual report information.
-Begin planning November workshops to inform communities about monitoring and reporting requirements for the following calendar year.

November
-Conduct workshops to inform communities about monitoring and reporting requirements for the following calendar year.

December
-Conduct workshops to review with Communities regarding requirements for Water System Plan and provide Water System Plan Guidance Document.
-Distribute Water System Plan Guidance Document.

2006

January through October
-Continue stakeholder meetings to review annual reporting requirements and deadlines.
-Develop internal guidance documents for review of Water System Plans.

February
-Send Quarterly reminders to Large Community Water Systems of upcoming January 1, 2007 deadline for Initial Plan.
-Provide assistance, as needed, to community water systems.
-Conduct workshops to continue to assist with Water Plan development.

May
-Send Quarterly reminders to Large Community Water Systems of upcoming January 1, 2007 deadline for Initial Plan. Provide assistance as needed to both Large and Small Community Water Systems.
-Continue to conduct workshops to assist water systems.

August
-Send Quarterly reminders to Large Community Water Systems of upcoming January 1, 2007 deadline for Initial Plan and continue to provide assistance to community water systems.
-Continue workshops.

November
-Send Quarterly reminders to Large Community Water Systems of upcoming January 1, 2007 deadline for Initial Plan and continue to provide assistance to water systems.
-Continue workshops.

December
-Prepare for Annual Report mailing.

2007

January
-Deadline for Large Community Water System Plans.
-Coordinate Annual Report form mailing with ACC report mailing.
-Assist communities with reporting requirements.

February

-Send quarterly reminders to Small Community Water Systems of upcoming January 1, 2008 deadline for Initial Plan and provide assistance, as needed.
-Continue workshops.

May
-Annual Reports due.
-Send quarterly reminders to Small Community Water Systems of upcoming January 1, 2008 deadline for Initial Plan and continue assistance.
-Continue workshops.

August
-Send quarterly reminders to Small Community Water Systems of upcoming January 1, 2008 deadline for Initial Plan and provide assistance as needed.
-Continue workshops to provide assistance.

November
-Send quarterly reminders to Small Community Water Systems of upcoming January 1, 2008 deadline for Initial Plan and provide assistance as needed
-Continue workshops.

2008

January
-Deadline for Small Community Water System Plans.
-Continue to assist small utilities.

HB 2643 Lower Colorado River; Conservation (Chapter 78

Prime Sponsors: Representatives Bee, Miranda, O'Halleran, Robson, J Weiers

Provisions

Administration

- Authorizes the Arizona Game and Fish Commission (Commission), the Arizona Department of Water Resources (ADWR) and the Central Arizona Water Conservation District (CAWCD) to enter into agreements with the federal government and other parties for participation in the Lower Colorado River Multi Species Conservation Program (MSCP).

- Specifies that the agreements may designate private financial institutions as fiscal agents or trustees for the collection and management of the MSCP monies.

- Establishes that the monies collected for the MSCP may include appropriations from the legislature; additional watercraft registration fees; surcharges on Arizona Colorado River special use permits; Colorado River water use fees; gifts, grants and donations from public or private sources; and payments by any person under any agreement to fund the MSCP.

Fee Assessments and Collections

- Allows the Commission to assess additional motorized watercraft registration fees that are collected solely for the purpose of funding the MSCP.

- Requires the revenues from the registration of motorized watercraft to be deposited in a watercraft registration fee clearing account. The State Treasurer distributes all monies collected

from motorized watercraft registration (except those collected specifically for the MSCP) into the Watercraft Licensing Fund. The State Treasurer deposits monies collected specifically for the MSCP into an account that is used solely for the MSCP.

- Allows the Commission to impose and collect surcharges on special use permits used on the Colorado River. The Commission determines the amount and the surcharges may only be used for the MSCP. The monies collected must be put into a Colorado River special use permit clearing account that is paid into a MSCP account on a monthly basis by the State Treasurer.

- Allows ADWR to assess and collect annual fees from each person in Arizona who diverts and consumptively uses water from the mainstream of the Colorado River. These monies must be put into the Colorado River water use fee clearing account, which is paid monthly into an account solely used for the MSCP. The Director must set these fees by July 1 of each year for the following program year.

- Requires that, in setting fees, the Director must consider:
  -The consumptive use by the person being assessed during that program year.
  -The payment obligations that apply to similar water users under agreements to fund the MSCP.
  -The amount of monies needed to fund the MSCP for that year.
  -The amount of monies from other sources that are expected to be available to fund the MSCP for that year.

- Allows the Director to establish classes of water users in to assign graduated fee rates to the respective classes.

- Requires the Director to consider the date of any contract or right to use Colorado River water and the type of water used when assigning fee rates.

- States that the Director must give written notice of the fees within thirty days after the fees are established for a program year.

- Requires the Director to record a statement of fees for the following year in the Department's records and transmit a copy of the statement to the State Treasurer.

- Establishes the fee calculation method for the consumptive use of Colorado River water. The fee is calculated by multiplying the applicable annual fee for the program year by the consumptive use for the person for the program year.

- Allows the Director to reduce the amount of a person's annual fee by the value of any services or tangible assets (including land or water) accepted by the federal government as a contribution to the MSCP. The Director also may reduce the amount of a person's annual fee by amounts paid or to be paid during the program year by the person under agreements with the CAWCD.

- Requires the Director to provide a notice and comment period and consult with representatives of the water users before setting the Colorado River water use fee.

- Requires the Director to give written notice of the amount of the fee that is assessed for the consumptive use of Colorado River water no later than August 15 before the beginning of a

program year. A person who is assessed a fee (including registration fees and annual water use fees) must pay the fee within 45 days of receiving written notice of the fee amount.

- Authorizes the Director to assess a penalty of 10 percent of the unpaid fee for each month or portion of a month that a fee is delinquent. The total penalty may not exceed 60 percent of the unpaid fee. An action to recover the penalties must be brought in the Superior Court in Maricopa County. All penalties collected will be deposited in the Colorado River water use fee clearing account.

- Clarifies that anyone who has entered into agreements with CAWCD for Colorado River water use does not have to pay a Colorado River water use fee if they are in compliance with the agreements.

Central Arizona Water Conservation District

- Allows the CAWCD Board to enter into agreements with state agencies, the federal government and any other person who participates in the MSCP.

- Authorizes CAWCD to manage the funds collected for the MSCP or to designate a private financial institution or the State Treasurer as a fiscal agent. Also applies to collection, investment and distribution of monies.

- Clarifies that monies collected for the MSCP can only be used for activities and administrative costs relating to the MSCP.

Definitions

- Defines *consumptive use* as a water user's total use that is recorded in the final accounting for the most recent calendar year.

- Defines *final accounting* as the United States Bureau of Reclamation's final compilation of records of Colorado River diversions, return flows and consumptive uses for the year.

- Defines *Lower Colorado River Multispecies Conservation Program* as the cooperative effort to provide the basis for compliance with the Endangered Species Act of 1973. The cooperative effort is among government agencies, political subdivisions of the states of Arizona, California and Nevada, and public and private parties with a common interest in the water and resources of the Lower Colorado River.

- Defines *program year* as the 12-month period between October 1st and the following September 30th.

Significance To Agency

The purpose of this program is to provide for the incidental take of endangered species along the Colorado River and limit our State's liability to assure that Arizona's water and power supplies are protected. The basic strategy is to implement a coordinated, comprehensive, conservation program to benefit the species in order to address the impacts of ongoing operations and maintenance and those associated with future water transfers. This program would thus assist Arizona in managing drought impacts in the future.

Required Outcomes

No rule changes are anticipated.

Legislation may be required to make technical corrections.

No substantive policies are anticipated.

Actions Required

1. Determine entities subject to the fee based on Article V Accounting Report. Note that parties to "Lower Colorado River Multi-Species Conservation Program, Arizona Trust Indenture and Joint Payment Agreement" (Trust Indenture Agreement) are not subject to the fees.

2. Determine if water use by entities subject to the fee is reported under a party to the Trust Indenture Agreement in coordination with those parties

3. Colorado River Management Section drafts courtesy letter for Director advising entities subject to fee that they will receive notice in May 06 of fee proposal to be paid on calendar 05 water use. Fee the same as provided for in Trust Indenture Agreement, i.e. $0.25/ac-ft.

4. Director requests that State Treasurer establish "Colorado River Water Use Fee Clearing Account."

5. Director publishes notice of proposed fee in early May 1, 2006 providing 30-day comment period. Fee the same as provided for in Trust Indenture Agreement, i.e. $0.25/ac-ft.

6. Director consults with entities to be assessed fee, providing two-week notice if hearing held.

7. Director sets fee by July 1, 2006, for entities subject to the fee, considering factors in 45-334 (A).

8. Director provides written notice to entities subject to the fee within 30 days of setting fee (the rate) per 45-334 (A)(6).

9. Director provides written notice of total amount of the fee by August 15 before the beginning of the program year per 45-334(B).

10. Director deposits fees collected in "Colorado River Water Use Fee Clearing Account" at State Treasurer.

Division Staff Support Required

- Director's Office
- Office of Legal Services
- Water Management Support

Timeline

2005
July

-Colorado River Management Section initiates determination of entities subject to the fee.
-Colorado River Management Section initiates determination if water use by entities subject to the fee is reported under a party to the Trust Indenture Agreement in coordination with those parties.
-Colorado River Management Section drafts courtesy letter advising entities subject to fee that they will receive notice in May 2006 of fee proposal to be paid on calendar 2005 water use.
-Director requests that State Treasurer establish "Colorado River Water Use Fee Clearing Account."

2006

May
-Director publishes notice of proposed fee in early May 1, 2006 providing 30-day comment period.
-Director consults with entities to be assessed the fee, providing a two-week notice if hearing held. (May or June meeting)

June
-Director to set fee by July 1, 2006, for entities subject to the fee, considering factors in 45-334 (A).

July
-Director provides written notice to entities subject to the fee within 30 days of setting fee (the rate) per 45-334 (A)(6).

August
-Director provides written notice of total amount of the fee by August 1 for calendar year 2005 water use.

September
-Fees due September 15 from contract holders
-Fees deposited by ADWR in "Colorado River Water Use Fee Clearing Account."
-State Treasurer deposits fees collected in J.P. Morgan Chase account.

October
-Money available Oct 1 for draw by Reclamation from J.P. Morgan Chase account

HB 2720 Water; General Industrial Use Permits (Chapter 236)
Prime Sponsor: Representative Boone

Provisions

HB 2720 repeals Laws 2002, Chapter 72, which authorized ADWR to extend the term of a general industrial use permit for up to seven years, and replaces it with another session law that extends the dates by which certain conditions must occur. For example, a water exchange contract, which is one of the necessary conditions for a water use permit to be granted, must be signed by January 1, 2007 (Previously January 1, 2002).

Significance To Agency

HB 2720 will help to better utilize Central Arizona Project water in the Sun City Area. The area is experiencing subsidence due to the over pumping of groundwater. HB 2720 will help the area to move off of groundwater and on to a renewable supply.

Required Outcomes

No rule changes are needed to implement the legislation.

No legislative changes are needed to implement the legislation.

No substantive policies are needed to implement the legislation.

Actions Required

No agency action is needed to implement the legislation.

Division Staff Support Required

Active Management Areas, generally; no specific staff support is required for this legislation

Timeline

No timeline for action is required.

HB 2728 Arizona Water Settlements Act (Chapter 143)

Prime Sponsors: Representatives J. Allen, Brown, Chase, Mason, Nelson, O'Halleran, Prezelski, Robson, J. Weiers
Senators Flake, Bennett

Provision

HB 2728 institutes programs, fees and other requirements for meeting the state's obligation pertaining to the water settlements of the Gila River Indian Community (GRIC) and San Xavier Reservation.

Gila River Indian Community Water Settlement Program

- Establishes five groundwater protection zones along the southern boundary of the Gila River Indian Reservation (Eastern Protection Zone North; Eastern Protection Zone South; Western Municipal and Industrial Protection Zone; Western Municipal Protection Zone; and Central Protection Zone). If groundwater withdrawals exceed a certain limit in those areas, the State's obligation to replenish the water is triggered.

- Prohibits transportation away from the Eastern and Western Protection Zones if the transportation is for a non-irrigation use. Certain exemptions apply for grandfathered uses; if the water is replenished or replaced within a certain time; or if specific storage and transportation limitations apply.

- Establishes conservation requirements for the Central Protection Zone that are no less restrictive than those established in the Management Plan for the Pinal Active Management Area (AMA).

- Requires the Arizona Water Banking Authority (AWBA) to acquire sufficient water supplies to meet the replenishment obligations of the State, using monies appropriated from the State General Fund. To the extent General Fund monies are not available, the AWBA may use groundwater withdrawal fees, collected in the Pinal AMA and already committed for Arizona Water Banking Authority purposes, to establish the Southside Replenishment Bank for the GRIC.

- Establishes the Southside Replenishment Bank for the GRIC and requires the AWBA to bank at least 1,000 acre feet of water per year until the balance in the GRIC account reaches 15,000 acre feet. There will be no cost to the GRIC. The AWBA is required to maintain a balance

in the Southside Replenishment Bank of at least 5,000 acre-feet. The AWBA is not required to deliver more than 11 percent of the annual water delivery in any single month.

- Requires the AWBA to maintain an accounting system that keeps long-term storage credits developed for GRIC separate from other long-term storage credits.

- Establishes a funding mechanism for replenishment by authorizing use of appropriated funds, and if no appropriations are available use of a groundwater withdrawal fee of up to $2.50 per acre foot. The fee will continue to be collected in the Pinal AMA and is currently used for water banking activities in Pinal AMA as well as replenishment obligations for the GRIC.

- Outlines the method to calculate the amount of any replenishment obligation. Withdrawals for municipal and industrial uses that exceed two acre-feet in the Western zones and 2.33 acre-feet in the eastern zones trigger a replenishment obligation. Withdrawals for irrigation uses are calculated based on the farm's flexibility account and irrigation water duty established by the Arizona Department of Water Resources (ADWR). A water company that withdraws water from an Eastern Protection Zone and transports the water for municipal uses outside the Eastern Protection Zones triggers a replenishment obligation if the amount exceeds 1,275 acre feet for the year. Specific time limits apply to replenishment.

- A person may incur an individual replenishment obligation if groundwater is withdrawn that exceeds a certain volume. The AWBA must send written notice of the obligation to the person specifying the amount, the cost of replenishment, and the manner in which the person may satisfy the obligation. The Director of ADWR is required to provide written notice of the potential for an individual who withdraws groundwater in the Eastern or Western Protection Zones to incur a replenishment obligation.

- Establishes a Gila River Maintenance Area and prohibits construction of new dams or enlarging existing dams within the area. Provides exemptions for flood control structures, stock ponds, replacement dams, and impoundments for certain mining activities, industrial facilities, and effluent.

- Prohibits irrigation of land within the Maintenance Area if the land was not irrigated between January 1, 2000 and the general effective date of HB 2728. Provides exemptions for lands that are irrigated with a surface water right that is earlier than the general effective date for HB 2728; if irrigation is allowed under other settlement agreements or decrees; or if the land is located in Cochise County.

- Authorizes ADWR to enforce the provisions of the Gila River Indian Community Water Settlement Program. Enforcement measures include inspections; investigations, audits, cease and desist orders, hearings, injunctive relief and civil and criminal penalties.

San Xavier Reservation Water Settlement Program

- Requires ADWR to analyze the impacts that a proposed new well will have on water levels at the San Xavier Reservation boundaries. If the analysis shows water levels will decline 10 feet or more in the first five years, the permit to drill shall be denied.

- Prohibits new well(s) within two miles of the San Xavier Reservation boundary if the combined capacity of all well(s) is 500 gallons per minute or more. Provides an exception if

a hydrologic study shows that the water level at the proposed well site is declining at an average rate of two feet per year; that water levels will not exceed a specific rate of decline over a five year period, or if the Nation provides written consent to drilling the well. This provision does not apply to recovery wells drilled to recover water stored at an underground storage facility located within one mile of the recovery well.

- Requires the Director of ADWR to provide written notice and a copy of an application to drill a well within two miles of the San Xavier Reservation boundary. If the Nation files a written objection to the application, the Director shall schedule an administrative hearing on the objection. Procedures and timelines for decisions are outlined.

Water Firming Program

- Requires the Director of ADWR to develop a water firming program to ensure that non-Indian agricultural priority (NIA priority) Central Arizona Project (CAP) water that has been reallocated to Arizona Indian tribes pursuant to the federally enacted Arizona Water Settlements Act (PL 108-451) is delivered during times of shortage at the same priority as municipal and industrial CAP water. The reallocation provides 15,000 acre feet of NIA priority CAP water to the GRIC and 8,724 acre feet of NIA priority CAP water to other Arizona Indian tribes.

- Requires the Director to work with the United States Secretary of Interior to firm the federal obligation of 28,200 acre feet of NIA priority CAP water reallocated to the Tohono O'odham Nation as provided in the Arizona Water Settlements Act (PL 108-451).

- Establishes the Arizona Water Firming Program Study Commission consisting of members appointed by the ADWR Director who represent at least eight specific entities. This Commission will study options for a water firming program that will satisfy the requirements of the Arizona Water Settlements Act and identify appropriate mechanisms to accomplish the goal. An interim report is due to the Legislature by November 1, 2005 and a final report is due January 6, 2006.

- The Commission is repealed on June 1, 2006.

Other Provisions

- Requires the State to cooperate with the GRIC to acquire a specific parcel of land located within the exterior boundaries of the Community's reservation. Specifies that state action shall be taken in accordance with Arizona law.

- Provides a conditional enactment for certain sections of HB 2728, based on final approval by the Secretary of the Interior, and notice in the Federal Register that all components of the Arizona Water Settlement Act. If final approval is not obtained by December 31, 2010, the sections will not take effect and Title 45, Chapter 15 will be repealed.

- The conditional enactments are for sections related to the Gila River Maintenance Area and Impact Zones; for restrictions on new dams and new irrigated lands; enforcement provisions; and the water firming program.

Significance To Agency

Provides an important step in the final enforceability of the Arizona Water Settlements Act. It also provides the Department with additional tools to maintain water supplies in certain areas of the state.

Required Outcomes

No new rules are needed and no existing rule needs to be amended.

Legislation and or funding may be need as a result of the Indian Firming Study Commission review and recommendations. The Department is also reviewing HB 2728 to see if technical amendments should be recommended for the next legislative session.
No new substantive policy statements are needed.

Actions Required

1. The Director must develop a water firming program to firm 15,000 acre feet of NIA priority water for the Gila River Indian Community and 8,724 acre feet of NIA priority water for future Indian settlements. The Director has appointed the Indian Firming Study Commission. See attached list of Commission members and staff, and work plan. Commission will make a final report to the Director and the Legislature with recommendations of any needed legislative authority, and a plan for the firming program by January 6, 2006.

2. Gila River Maintenance Area. To accomplish the prohibition of new storage reservoirs in the Area, and prohibition of new irrigation from impact zones within the Area, the Department will have to take several steps:
   (a) Repository of maps of the Gila River Maintenance Area and notice to public.
   (b) Remote sensing survey of existing irrigation in the Gila River Maintenance Area.
   (c) Modify applications for construction or enlargement of dams to be consistent with prohibition provisions.
   (d) Modify NOI forms for Gila River Maintenance Area to incorporate questions concerning (i) whether the proposed well will be used for irrigation, and (ii) notice that if the proposed well is in or near an impact zone of certain forms to be filed with the Gila River Indian Community.

3. Southside Protection Program. The replenishment obligation is given to the Arizona Water Banking Authority, however, the Department is responsible for the Southside Protection Program, to accomplish the restrictions of the Southside Protection Program the Department will have to take several steps:
   (a) Repository of maps of the Southside Protection Zones and notice to public.
   (b) Survey and documentation of all municipal and industrial groundwater uses in the Zones.
   (c) Modify NOI forms in Southside Protection Zones to incorporate notice of the replenishment obligations.
   (d) Modify Annual Reports for groundwater users within the Southside Protection Zones to provide the Department with adequate information to make calculations for replenishment obligations of the AWBA.

4. San Xavier Protection Program. The Department will need to modify NOI forms in the Tucson AMA to give notice to the public of the new requirements for well spacing analysis near the San Xavier Reservation.

Division Staff Support Required

- Director's Office
- Office of Legal Services
- Hydrology Division
- Active Management Areas
- Assured and Adequate Water Supply Program
- Recharge
- Office of Statewide Planning
- Arizona Water Banking Authority
- NOI Unit
- Office of Engineering

Timeline

2005

May

-Firming - First meeting of the Indian Firming Study Commission (review objectives and background). Staff complete model runs for identification of the firming volume.

June

-Meeting with GIS and Legal over remote sensing availability and costs for Gila River Management Area baseline. Meeting with Pinal AMA on Southside Protection Program. Meeting with Assured Water Supply on Southside Protection Program.

-Firming – Meeting with Bureau of reclamation to discuss State's role in "assisting" the Feds with their firming obligation. Study Commission Meeting - Define Shortage and Quantify volume of water needed to offset projected shortages to NIA water for the next 100 years. Identify alternative methods for firming water.

July

-Meeting with GRIC over Gila River Management Area baseline. Meeting with Tucson AMA on San Xavier Groundwater Protection Program. Meeting with NOI group about changes to conform to settlement programs in Pinal AMA, Tucson AMA, and upper Gila River area.

-Firming – ADWR staff develop additional information on each solution element identified by Study Commission including: cost/funding source, identification of supply required to meet the firming obligation, identification of water supply available to meet the firming obligation, hydrologic feasibility, legal feasibility, and potential partnerships.

August

-Meeting with Office of Engineering over Gila River Management Area to modify dam permit forms. Remote sensing activities begin.

-Firming – Meeting of the Firming Study Commission. Present expanded solution elements (work identified in July). Identify ranking criteria for ranking solution elements. Staff to rank elements based on criteria. Develop outline for Interim Report.

September

-Firming – Develop Interim Report and present Draft to Study Commission. Study Commission Meetings (2) to discuss ranked solution elements and begin defining recommendations and review Draft Interim Report.

October

-Firming – Finalize Interim Report. Develop outline for Final Report for Study Commission review. Study Commission Meeting to discuss recommendations, to identify preferred mechanism, and review Interim Report. Staff to identify appropriate statutory and regulatory provisions that are necessary to fully implement the recommendations being discussed.

November

-Meeting with GRIC Gila River Management Area GIS baseline created from remote sensing.

-Firming – Submit Interim Report to the Legislature. Study Commission Meeting to finalize recommendations and review Draft Final Report. Staff to continue to develop necessary statutory and regulatory provisions and agreements.

December

-Finalize Gila River Management Area GIS baseline. Finalize NOI form changes. Finalize dam permit forms.

-Firming – Review and complete Final Report (no meeting unless necessary to complete report or other issues). Complete necessary statutory and regulatory provisions and agreements.

2006

January

-Finalize annual report changes for Pinal AMA for Southside Protection Program.

-Submit Final Report of the Firming Commission to the Legislature.

SB 1190 New Exempt Wells; Restrictions; Exemptions (Chapter 254)

Prime Sponsors: Representatives O'Halleran, Pierce, Robson
Senate Allen, Arzberger, Blendu, Cannell, Flake, Huppenthal

Provisions

Restricts the drilling of new (January 1, 2006 and after) exempt wells on land if any part of the land is within 100 feet of the operating water distribution system of a designated municipal provider as shown on a digitized service area map provided to the Arizona Department of Water Resources (ADWR) by the provider. A new exempt well may be drilled on land that is within 100 feet of a designated provider's operating distribution system if the landowner demonstrates to the director's satisfaction that any of the following apply:

The municipal provider does not provide written verification of municipal water service to the landowner within 30 days after the landowner submitted a written request for municipal service.

The municipal service connection costs more than the cost of drilling and equipping the well.

The prospective well owner cannot obtain an easement in order to hook up to the municipal system.

If the prospective well owner cannot meet any of the above-listed conditions, he may still drill the well if he provides written verification from the municipal provider that he will not receive or request municipal service while operating the exempt well. If the well owner subsequently receives municipal water service, the well may not be used as an exempt well. An exempt well drilled under this exception may not be considered by ADWR when determining the potential impacts of a proposed non-exempt well under the well spacing rules.

This restriction does not apply to "replacement" exempt wells, nor does it apply to remediation wells used for remediating groundwater quality problems if certain conditions are met.

Significance To Agency

Prior to the enactment of this legislation, a person could receive water from a municipal provider (generally in-home use) and drill an exempt well and withdraw groundwater for exterior use. By doing drilling an exempt well, the homeowner could avoid paying the cost of municipal water, which could be significant for large, high water using lots. Most municipal rate structures are conservation based, which means that the more water you use, the higher your rates. This situation would tend to discourage conservation efforts by municipal providers. In addition, since the exempt well restriction only applies

when municipal providers are designated as having an assured water supply, it is clear that this statute will result in less groundwater being pumped. Less groundwater will be pumped because the water that is delivered to the lot by a designated provider will be a renewable water source and not groundwater.

Required Outcomes

Rule changes are anticipated. The Well Rules Stakeholders Group will identify specific rules that will require changes.

An amendment may be needed to clarify that the relevant date for determining whether an exempt well may be drilled under the statute is the date the NOI to drill the well is filed, not the date well drilling commences. The literal language of the statute prohibits the drilling of an exempt well if the land on which the well is to be drilled is within 100 feet of a designated provider's operating distribution system at the time drilling is to commence, even though ADWR issued a drilling authority to the landowner because the land was not within 100 feet of the system when the NOI was filed.

ADWR will develop internal procedures within the Notice of Intent Section. The Stakeholders Group may assist in this activity. ADWR may consider issuing a substantive policy statement informing the public of the Department's interpretation of the statute with respect to the relevant date for determining whether an exempt well may be drilled (i.e., the date the NOI is filed, rather than the date well drilling commences).

Actions Required

ADWR staff will meet internally (NOI and GIS sections) to identify exempt well application process revisions. Primary areas for consideration are;

- Obtaining updated water service area maps from designated providers
- Developing GIS covers for use in the application review process
- Developing new forms for drilling within a designated provider's distribution system.
- Reviewing the new process with well drillers and Stakeholders Group and making appropriate changes.
- Developing a Substantive Policy, if necessary.
- Implementing the new process by January 2006.

Division Staff Support Required

- Legal Division
- NOI Section
- GIS Section
- AMA Staff

Timeline

2005

June

-Internal meeting to begin discussions on process changes. Identify preliminary procedural revisions, GIS products, application form revisions and new form development.

July

-Internal meeting to review and discuss draft, new application procedure, GIS product mock-up, draft new and revised forms.

August

-Request service area/distribution system maps from designated providers.

September

-Present all NOI application revisions to well drillers and Stakeholders Group; make appropriate revisions.

October

-If necessary, prepare a substantive agency policy

November

-Have GIS covers, forms and in-office procedures finalized.

2006

January

-Implement revised review process for exempt wells.

SB 1235 Water; CAGRD Omnibus (Chapter 198)

Prime Sponsors:	Representatives	Brown, Chase, Mason, O'Halleran, Rios,
	Senators	Arzberger, Flake

Provisions

SB 1235 makes numerous changes to statutes relating to the Central Arizona Groundwater Replenishment District (CAGRD), including replenishment taxes, activation fees and reserve targets. SB 1235 contains the following provisions:

Replenishment Obligations and Taxes

- Prohibits a water provider from serving water for another municipal provider who is delinquent in payment of the replenishment tax until all outstanding replenishment taxes are paid. This provision does not apply to irrigation districts that commence service of groundwater to an industrial user.

- Specifies that termination or lapsing of an Assured Water Supply Designation does not release a member of CAGRD from an obligation to replenish excess groundwater withdrawals.

- States that a service provider must pay all delinquent replenishment taxes, including interest, incurred by its predecessor, to qualify as a member of CAGRD.

- Outlines CAGRD's replenishment obligation in the event that a municipal provider is delinquent in paying its replenishment taxes.

Activation Fees

- Requires CAGRD members to pay activation fees before the State Real Estate Commissioner can issue a public report authorizing the sale or lease of subdivided land. Requires CAGRD to levy the activation fees as follows:
  - -A one-time fee for subdivisions within member lands that are enrolled before May 6, 2004 and that have not been issued a public report. The fee is against each housing unit in the subdivision.
  - -A one-time fee against each housing unit to be constructed within a subdivision enrolled in the CAGRD on or after May 6, 2004.

- Requires CAGRD to establish the activation fees each year, and states that the activation fees are to be used to acquire water rights and develop the infrastructure necessary to perform replenishment obligations.

Reserve Target

- Requires CAGRD to calculate a reserve target for the Phoenix, Pinal and Tucson (Active Management Areas (AMAs) and outlines the new formula.

- Authorizes CAGRD to adjust the reserve target on approval from the Director.

- Authorizes the Director to determine if the replenishment reserve target and projected replenishment obligations are consistent with the Management Goal of the AMA.

Conservation District Credits

- Authorizes the Director to allow CAGRD to transfer credits before January 1, 2030.

- Requires the application to transfer credits to include:
  -The reason for the request.
  -The amount of credits to be transferred.
  -The plans for replacing the credits.

Other Provisions

- States that CAGRD must use water that was stored in a state demonstration project before July 1, 1996 for the benefit of member lands located in the AMA in which the water was originally stored.

- Defines *projected 100 year replenishment obligation* as CAGRD's total projected annual groundwater replenishment obligation at AMA build-out, multiplied by 100.

- Requires CAGRD to revise their preliminary and long-range plans if the Director determines that it is no longer consistent with the Management Goal of the AMA.

Significance To Agency

SB 1235 contains provisions that relate to the Central Arizona Groundwater Replenishment District Plan of Operation. Overall, the legislation strengthens the Plan of Operation and has beneficial consequences for water management.

Required Outcomes

No rule changes are needed to implement the legislation.

No legislative changes to implement the legislation are anticipated at this time.

No substantive policies are needed to implement the legislation.

Actions Required

SB 1235 requires no agency action.

Division Staff Support Required

SB 1235 requires no division staff support.

Timeline

There is no agency action required, and, therefore, no timeline for action.

SB 1318 Omnibus; Flood Control (Chapter 257)

Prime Sponsors:	Representatives	Chase, Nelson
	Senators	Arzberger, Bee, Blendu, Flake

Provisions

SB 1318 allows a county flood control district (district) to inspect development on properties located in a floodplain, allows a district to enter into contracts to implement flood control enhancement solutions and modifies the definition of development as it relates to management of floodplains and watercourses.

Flood Prevention Districts

Qualified Electors and Elected Directors

- Allows any qualified elector of a Flood Prevention District to be elected as a Director of division of the District.

- Expands the pool of qualified electors who may register and cast votes in elections within the District and who may serve as Directors if elected by a division of the District. These new qualified electors include:
  - -A designated officer or agent of a corporation that owns real property within the District, that has paid taxes and that has permission from their Board of Directors.
  - -A designated partner of a partnership that owns real property within the District, that has paid taxes and that has permission from all partners.
  - -The designated trustee of a trust that owns property within the district, that has paid taxes and that has permission by all the trustees of the trust
  - -An administrator of the estate of a deceased person who owns real property within the District and has paid taxes.
  - -The guardian of a minor or incompetent person who owns real property within the District and has paid taxes.

Division of a District

- Requires the Board of Supervisors to divide a proposed Flood Prevention District into three or five divisions that are nearly equal in size.

- Specifies that, when requested in the petition, the qualified electors of the district will elect three directors who are resident electors and freeholders of the district.

- States that qualified electors for a Flood Prevention District are the same as the qualified electors for a Drainage District, unless otherwise specified.

Other Provisions

- The section related to Flood Prevention Districts contains a delayed repeal date of January 1, 2016.

County Flood Control Districts

Definitions

- Defines *development* as any man-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

- Modifies the definition of *floodplain* to mean any area in a watercourse that has been or may be covered partially or wholly by floodwater from a one hundred-year flood. *(Note: A one hundred-year flood is a flood that has a one per cent chance of being equaled or exceeded in a one-year period).*

Contracts

- Either on its own or by contract, allows a District to implement a variety of measures to prevent flood damage or to manage the floodplain to minimize flood damage. In addition, the district may coordinate flood warnings and flood response plans with other entities.

Inspections

- Authorizes a District or its agent to enter and inspect any development on property that is located in a floodplain in order to determine whether the owner is in violation of laws regarding structures built in floodplains. The inspection may be carried out based on prior written authorization or may be conducted in the case of an emergency at any time. The district may not inspect records or files on site, or the interior of any building. To inspect a property in a floodplain, the district must:

  -Attempt to provide written notice of an inspection to the owner at least 48 hours in advance.
  -Allow the owner to accompany the district inspector on the inspection.
  -Comply with safety requirements of the site.
  -Prepare a report of any inspections that are made.
  -Send a copy of the report to the owner within 30 days of the inspection.
  -Make the report available in the records of the District.

Development in Watercourses or Floodplains

- Prohibits any *development* in a delineated floodplain that will divert, retard or obstruct the flow of waters in any watercourse without authorization from the District in which the watercourse is located. Current law prohibits the *construction of structures* in a delineated floodplain or in a watercourse in such a way as to divert, retard or obstruct the flow of waters and classifies violations as a class 2 misdemeanor (4 months/$750).

Other Provisions

- States that the floodplain regulations adopted by a district are intended to carry out the requirements of the National Flood Insurance Program. Specifies that any terms not defined in Arizona Revised Statutes have the meaning set by federal code, effective on January 1, 2005.

Significance To Agency

SB 1318 has no direct significance to the agency.

Required Outcomes

There are no required agency outcomes.

Action Required

No agency action is required.

Division Staff Support Required

No division staff support is required

Timeline

No timeline for implementation is required.

SB 1336 Rural Water Legislative Study Committee (Chapter 281)

Prime Sponsors:	Representatives	Aguirre, Brown, Cannell, Chase, Mason, Paton
	Senators	Arzberger, Bee, Blendu, Cannell, Flake

Provisions

SB 1336 creates a Rural Water Legislative Study Committee comprised of the following members:

- Appointed by the President of the Senate:
  -One Senator representing a county with a population between 175,000 and 250,000 people.
  -Two Senators representing counties with populations less than 175,000 people.
  -One member who represents counties in rural Arizona.
  -One member who represents natural resource conservation districts in rural Arizona.
  -One member who represents the hardrock mining industry in rural Arizona.
  -One member who has experience in marketing or developing properties in rural Arizona.
  -One Representative from a county with a population between 175,000 and 250,000 people.
  -Two Representatives from counties with populations less than 175,000 people.
  -One member who represents cities and towns in rural Arizona.
  -One agricultural producer representing the rural agricultural community.
  -One member who represents an agricultural improvement district.
  -One member who represents an irrigation district in rural Arizona.

- Requires the Committee to elect a chairperson out of the Legislative members of the Committee.

- Requires the Committee to evaluate information related to water supplies in rural Arizona and water use in rural Arizona, to determine effective methods of reclamation of water, to review options for developing alternative supplies of water, to review opportunities for the reuse of water in Arizona, to identify resources needed to enhance available supplies and infrastructure needs, to review information about amounts of evaporation from lands and foliage, to review measures that enhance the value of water rights and to identify opportunities for the conservation of water in rural Arizona. The Committee may request Type your question here, and then click Search. information from organizations, universities and governmental entities.
- Requires the Committee to submit a report of its findings by December 31, 2006.
- Defines *rural Arizona* as a county with a population of less than 250,000 people.
- Contains a delayed repeal date of September 30, 2007.

Significance To Agency

Unknown at this time.

Required Outcomes

Unknown at this time.

Actions Required

Unknown at this time.

Division Staff Support Required

Unknown at this time.

Timeline

Unknown at this time.

SB 1522 Environmental Protections; Budget (Chapter 332)
Prime Sponsors: Senators Bee, Bennett, Blendu, Burns, Huppenthal

Provisions

SB 1522 contains the following provisions that are relevant to the Arizona Department of Water Resources:

- Provides that all monies received through an interstate water banking agreement with the state of Nevada that are not used to purchase or store water or otherwise fulfill contractual obligations with the state of Nevada are subject to legislative appropriation.
- Appropriates $800,000 in FY 2005-2006 and $796,000 in FY 2006-2007 from the watercraft licensing fund to the Department of Administration to comply with this state's obligation relating to the settlement of the Zuni Indian Tribes water claims pursuant to the Zuni Indian Tribe Water Rights Settlement Act of 2003.

Significance To Agency

There is no direct significance to the agency itself, but settling Indian claims to water rights adds certainty to water claims. Settling these claims has beneficial implications for our State's ability to manage its water supply.

Required Outcomes

There are no required outcomes.

Action Required

ADWR must send a letter to the Arizona Department of Administration requesting that funds be transferred to implement the settlement agreement.

Division Staff Support Required

- Legal Division
- Director's Office

Timeline

The date on which the letter is to be sent to the Department of Administration is unknown at this time.

Legal Division

ADWR is supported by in-house counsel, primarily due to the conflict that arises as a result of other State agencies holding water rights that are subject to ADWR regulation. The Legal Division also includes adjudication technical staff and the ADWR Docket Supervisor.

Legal Division Responsibilities

- Respond to and participate in lawsuits
- Prepare for and participate in administrative hearings
- Write, review and administer contracts (grants, IGA, leases, etc.)
- Advise the Director and staff on all ADWR programs in addition to statewide and national water issues
- Facilitate and negotiate Indian water rights settlements
- Draft and adopt administrative rules
- Draft legislation
- Develop and adopt Management Plans
- Prepare Code, Rule and Management Plan compliance cases
- Provide technical support to the Maricopa and Apache County Superior Courts in the Gila and Little Colorado River Adjudications

- Assist in writing and implementation of policies for all ADWR programs
- Serve as the Director's designee on the State Power Plant and Transmission Line Siting Committee and assist in preparing conditions on Certificates of Environmental Compatibility

Current Litigation

Arizona v. California, United States Supreme Court, No. 8, Original.

Problem Description: Litigation to determine the entitlement of the Fort Yuma Indian Reservation (Quechan Tribe) to Colorado River water.

Relevant Facts: the U.S. Supreme Court has settled the claims of the Quechan Tribe, subject to confirmation. The settlement is described further in the "Indian Water Rights Settlements" section.

Arizona State Land Dept. et al., v. Western Regional Director, Interior Board of Indian Appeal, B.A. Docket No. IBA 04-133-A, Consolidated.

Problem Description: Appeal of the Bureau of Indian Affair's decision to take 1,168.9 acres in Yavapai County into trust for the Yavapai-Apache Nation.

Relevant Facts: ADWR appealed the BIA's decision on the ground that the Environmental Assessment is inadequate and that 25 U.S.C. § 211 prohibits the Secretary of Interior from taking lands into trust without Congressional approval. ADWR filed its opening brief on October 29, 2004. ADWR and the Yavapai-Apache Nation are in negations over the EA issue, primarily regarding water planning and regulation.

Arizona Water Company v. ADWR, Maricopa Superior Court, No. CV2000001700; *Arizona—American Water Company v. ADWR*, Maricopa County Superior Court, No. CV200001497.

Problem Description: Lawsuits brought by private water companies challenging ADWR's conservation program for municipal water providers in the Management Plans for the Third Management Period (2000 to 2010).

Relevant Facts: Both suits challenge the total gallons per capita per day conservation program in the Third Management Plan. The superior court has placed both suits on the inactive calendar until September 1, 2005 to give the parties additional time to attempt to resolve the Plaintiffs' applications for administrative adjustments to their conservation requirements. Resolution of those applications could result in a dismissal of the lawsuits.

Coalition of Canada del Oro Residents, et al. v. ADWR, et al., Maricopa Superior Court, No. CV2002091362.

Problem Description: Challenge by neighborhood activists to a Certificate of AWS issued by ADWR for a subdivision in the Tucson area.

Relevant Facts: At the time ADWR issued the Certificate of AWS, it informed the Plaintiffs that it considered the objections of the individual objectors, but not the identical objections of the Coalition because the Coalition is an unincorporated association without capacity to bring legal actions under Arizona law. After the Office of Administrative Hearings upheld ADWR's actions, Plaintiffs filed an action for judicial review in superior court. The lawsuit originally alleged that the laws governing the AWS Program violate the public trust doctrine; that ADWR does not adequately consider water quality issues when considering applications for AWS certificates; and that ADWR unlawfully denied the Coalition the right to object and appeal ADWR's decision on the Certificate.

The Plaintiffs dismissed their public trust and water quality challenges, leaving only the unincorporated association issue remaining. The superior court entered judgment in favor of ADWR, and the Plaintiffs filed an appeal. On May 10, 2005, the Arizona Court of Appeals issued a memorandum decision affirming the superior court's decision. The Plaintiffs filed a timely Petition for Review with the Arizona Supreme Court. ADWR's response is due on July 8, 2005.

In re the General Adjudication of all Rights to Use Water in the Gila River System and Source, Maricopa County Superior Court, Nos. W-l, W-2, W-3, W-4 (consolidated).

Problem Description. The Gila adjudication covers more than half of the state, including Phoenix and Tucson, and numerous Indian and other federal reservations located in the central and southern areas. ADWR provides technical and administrative assistance to the adjudication court on issues relating to the nature, extent and relative priority of federal and state-based water rights within the adjudication.

Relevant Facts. On July 16, 2004, the Special Master entered a report that adopted and modified in part the *Subflow Technical Report, San Pedro River Watershed*, prepared by ADWR in March 2002. The Special Master submitted his report to the adjudication court and the parties filed comments. Oral argument is scheduled for July 13, 2005.

On May 15, 2005, ADWR filed a technical report concerning certain springs for which the U.S. Bureau of Land Management filed federal reserved right claims. ADWR's report presents detailed information regarding the location of these springs in relationship to the southwestern boundary of the San Carlos Indian Reservation. The report was prepared at the request of the Special Master in order to facilitate settlement discussions.

In May 2005, the Special Master directed ADWR to develop and maintain an electronic index and database that will be available on the Internet for documents disclosed in two contested cases. These cases involve the federal reserved water right claims for Fort Huachuca and State Trust Lands. In November 2005, the disclosure of documents is scheduled to begin in both cases.

On December 10, 2004, the Arizona Water Settlements Act was signed into law. This Act satisfies the federal reserved water rights claims of the Gila River Indian Community and the Tohono O'odham Nation. The settlement agreement is expected to come before the adjudication court in June 2006, and ADWR may be requested to prepare a technical assessment report of the settlement provisions. (The Arizona Water Settlements Act is described further in the "Indian Water Rights Settlement" section.)

In re the General Adjudication of all Rights to Use Water in the Little Colorado River System and Source, Apache County Superior Court, No. 6417.

Problem Description. The Little Colorado River adjudication covers the northeastern part of the state, including Show Low, Flagstaff, and the Hopi and Navajo Indian Reservations. ADWR provides technical and administrative assistance to the adjudication court on issues relating to the nature, extent and relative priority of federal and state-based water rights within the adjudication.

Relevant Facts. On January 30, 2005, ADWR filed a supplemental contested case hydrographic survey report concerning the claims filed by Phelps Dodge to divert water from Show Low Lake in exchange for water diverted from the Salt River system for use at the Morenci copper mine. ADWR mailed over 5,000 notices of the filing of the report together with objection packets. The deadline for filing objections to the report is August 1, 2005, after which the matter will be set for hearing before the Special Master. ADWR expects to participate in the hearing.

As requested by the court, ADWR commenced field investigations to evaluate claims filed by the Hopi Tribe and the United States on its behalf for water uses on the Hopi Reservation. The claims involve nearly 50,000 acres of irrigated land, and several hundred springs, stock ponds and wells. Depending upon available resources, three to five years could be required in order for ADWR to compile and analyze the necessary data, and prepare and publish a preliminary hydrographic survey report.

On June 23, 2003, the Zuni Settlement Act was signed into law. This Act satisfies the federal reserved water rights claims of the Zuni Tribe. The settlement agreement may come before the adjudication court in calendar year 2006, and ADWR may be requested to prepare a technical assessment report of the settlement provisions. (The Zuni Settlements Act is described further in the "Indian Water Rights Settlement" section.)

Phelps Dodge Corp. v. ADWR, U.S. Forest Service, Tonto National Forest, SRP, et al., No. 1CA-CV 04-0491 (Arizona Court of Appeals).

Problem Description. In 2003, Phelps Dodge filed an objection to a permit application filed by Tonto National Forest for instream flows in Cherry Creek. Phelps Dodge claimed that ADWR lacks legal authority to grant permits to appropriate water for instream flows, and that ADWR's Instream Flow Guide is invalid.

Relevant Facts. Both the Office of Administrative Hearings and the Maricopa County Superior Court ruled in ADWR's favor on the issues raised by Phelps Dodge. Phelps Dodge appealed to the Arizona Court of Appeals. The matter was briefed, and on May 4, 2005 the case was argued. A decision has not yet been issued.

Rio Rico Properties, Inc. and City of Nogales v. ADWR, Maricopa County Superior Court, No. CV2002012124.

Problem Description: Plaintiffs brought $450,000 action against ADWR seeking refund of groundwater withdrawal fees paid between 1984 through 1994. Suit seeks reimbursement of fees paid, with interest, asserting that water pumped during the relevant time period was surface water, not groundwater, and therefore not subject to the groundwater withdrawal fee.

Relevant Facts: Action is pending before Superior Court, but currently stayed by agreement of parties.

San Carlos Apache Tribe, et al. v. United States, et al. (Globe Equity Decree), United States District Court, District of Arizona, No. CIV 99255 TUC ACM.

Problem Description. Litigation in federal district court involving the interpretation of the Globe Equity Decree, which was entered in 1935 and established relative rights to surface water involving approximately 3,000 diversions from the Upper Gila River.

Relevant Facts. ADWR monitors the case for issues of statewide importance and has participated as *amicus curiae* on some issues. Currently, whether the Globe Equity Decree has a preclusive effect on the federal reserved water rights claims of the Gila River Indian Community and the San Carlos Apache Tribe is an issue before the Arizona Supreme Court. Opening briefs were filed in April and June 2005.

Ongoing Proceedings before the Office of Administrative Hearings

Problem Description: All ADWR permits are subject to appeal by the applicant and, in most cases, by protestants to the issuance of the permit. If an appeal is filed, a hearing must be held at the Office of

Administrative Hearings (OAH). ADWR also pursues civil violations of the Code through hearings at OAH.

Relevant Facts: The number of ADWR permit challenges before OAH has increased significantly in the last five years and there has been a resulting increase in the number of those administrative actions that parties have appealed to Superior Court. The majority of the recent challenges have occurred in the AWS Program, where citizens or environmental groups have challenged the issuance of a certificate that allows the construction of a new subdivision and the underground water storage program, where landowners near proposed underground storage facilities have objected on the basis of concerns for their property. During that same five-year period, ADWR had actions at OAH for civil violations of the Code.

Adjudications

At their request ADWR provides technical and administrative assistance to the Court and the Special Master, "in all aspects of the general adjudication with respect to which the director possesses hydrological or other expertise." A general stream adjudication is a judicial proceeding in which the nature, extent and relative priority of water rights is determined. The Legal Division oversees ADWR's role in the adjudication, represents ADWR in front of the Court and the Special Master, and assists with the preparation of reports and comments requested by the Court and the Special Master.

There are two general stream adjudications in the State, the Gila River System and Source (Gila Adjudication) and the Little Colorado River System and Source (LCR Adjudication). The exterior boundaries of these two adjudications include more than half the State, where most of the Indian reservations and federal land is located. There are nearly 30,000 parties in the Gila Adjudication and nearly 5,000 parties in the LCR Adjudication. A party is a person or entity that has filed one or more claims to water rights in the adjudication (Statement of Claimant or SOC). On behalf of federal non-Indian lands alone, the United States has filed over 15,000 claims.

Pursuant to statute and as requested by the Court and the Special Master, the Legal Division provides technical assistance to both of the adjudications in the following areas:

HSRs — ADWR is required to prepare and publish comprehensive Hydrographic Survey Reports (HSRs) for each of the 10 watersheds within the two adjudications. HSRs are multivolume publications that involve intensive data collection and field inspection efforts by ADWR, including detailed information regarding land ownership, hydrology, the factual basis for each SOC, and ADWR's recommendations regarding the water rights attributes for each individual water right claim or use investigated. For each HSR, ADWR prepares a preliminary and a final draft. Generally, at least two to three years are required to prepare the preliminary HSR, with another year or more to review comments and prepare a final HSR. ADWR must provide notice of the filing of the preliminary HSR to each party within the affected watershed, and notice of the final HSR to each party and water user throughout the affected adjudication area. ADWR also prepares and publishes supplements to HSR's after the HSR's have been finalized. Technical and legal staff within the Legal Division coordinate and prepare HSRs for the Court with assistance from other technical staff within ADWR.

Reports — As requested by the Court or the Special Master, ADWR prepares and publishes technical reports on specific issues or factual matters within the adjudications, such as Indian water rights settlements, the Globe Equity 59 Decree, *de minimis* uses, inventory of uses within the Santa Cruz River watershed, the determination of subflow, comments on legal issues and status reports. Technical and legal staff within the Legal Division coordinates and prepares these reports with other technical staff within ADWR.

Data Bases — ADWR maintains and updates SOC information, including names and addresses of the parties to the adjudications, the location and nature of claims, property records and the payment of filing fees that are forwarded to either the Maricopa County Court (Gila Adjudication) or the Apache County Court (LCR

Adjudication). The information is updated as new SOCs are filed and as existing SOCs are assigned due to changes in property ownership or amended due to other changes. These databases are maintained and updated by staff within the Legal Division.

Summons — As required by A.R.S. § 45-253, ADWR sends summonses by certified mail to known potential claimants. Thousands of SOCs were filed in response to the summonses that were issued at the beginning of the adjudications. Additional SOCs are filed as summonses for new uses are issued. Through the end of calendar year 2004, over 85,000 SOC's have been filed in the Gila, and over 14,000 SOC's have been filed in the LCR.

Central — The Legal Division maintains a Central Information Repository for all data, Information reports and other information related to the adjudications. This information is Repository available to the public and to the parties. The repository contains thousands of documents.

Court — Legal counsel within the Legal Division appear in front of the Adjudication Appearances Court and the Special Master to respond to questions regarding reports/comments that ADWR has prepared. Legal counsel also directs testimony by technical staff and the preparation of Court exhibits in hearings before the Court.

Office of Information Technology

The Office of Information Technology contains three units: Application Development, Web Development and Network Support.

Application Development Unit Responsibilities

- Develops custom Enterprise business applications that support ADWR activities
- Develops custom web-enabled business applications
- Provide user training on all new custom applications
- Perform quarterly/yearly operational functions as they pertain to the custom applications such as Annual Reports and other noticing functions

Web Development Unit Responsibilities

- Develop and maintain websites for ADWR, as well as for groups directly related to ADWR
- Respond to users with web-related issues, improve the use of web-based technology

Network Support/Customer Support Unit Responsibilities

- Provide technical support for ADWR's computer, network and telecommunications systems hardware and software
- Provide end user support of all desktop hardware and software
- Provide comprehensive network security
- Resolution of all Customer Support calls

Hydrology Division

The Hydrology Division provides technical hydrologic support to the Water Management, Water Engineering and Statewide Water Planning Divisions. The Hydrology Division collects and/or evaluates groundwater and surface water information that is used in developing water budgets, hydrologic models, hydrographic survey reports, land subsidence evaluations, Indian settlements, subdivision approvals, water rights decisions, well drilling application review, water quality assessments, review of recharge applications and ongoing evaluations of recharge facility performance, and a variety of special projects.

Field Services Section

Basic Data Unit Responsibilities

- Measure wells in statewide water level index lines
- Monitor water level chart recorders on a quarterly basis
- Install water level transducers
- Sample water quality index wells
- Monitor index wells in Prescott AMA
- Sample wells in Phoenix AMA for Total Dissolved Solids data
- Conduct water level surveys statewide
- Prepare Hydrologic Map Series reports for CD publication
- Support sites WQARF site investigations
- Provide Rural Watersheds with hydrologic support (Little Colorado Basin, Upper San Pedro Basin, Verde Valley Basin)
- Measure well discharges on as-needed basis in AMAs

GPS/Gravity Survey Unit Responsibilities

- Conduct GPS surveys at WQARF sites
- Conduct GPS surveys for land subsidence
- Conduct microgravity and GPS surveys
- Establish absolute gravity stations established in Phoenix AMA
- Provide support for three interferogram studies (Phoenix and Tucson AMAs, NASA grant)
- Perform depth to bedrock and aquifer storage analyses

Geographic Information System Responsibilities

- Provide GIS training sessions
- Produce new GIS maps

Modeling Section

Modeling Section Responsibilities

- Update or enhance AMA hydrologic models
- Calibrate and prepare for peer review AMA hydrologic models

- Publish Annual Monitoring Reports
- Prepare water budgets
- Review groundwater flow models submitted to ADWR for the AWS Section, the Colorado River Management Section and contaminant transport models submitted to Arizona Department of Environmental Quality
- Support community water management efforts with modeling expertise

Water Resources Section

Water Resources Section Responsibilities

- Review Certificates of Assured Water Supply
- Review Water Adequacy Statements
- Prepare water availability letters for future certificates
- Review Designations of AWS or Adequacy
- Prepare Analyses of AWS for future certificates or adequacy reports
- Issue water availability reports for unsubdivided lands
- Perform well impact analyses

Surface Water and Recharge Section

Surface Water and Recharge Responsibilities

- Review underground storage facility application technical and draft permits
- Review recovery well applications
- Conduct pre-recharge site inspections
- Review quarterly and annual reports
- Conduct recharge rule and application packet meetings
- Prepare technical bulletins for storage facilities
- Review instream flow projects
- Conduct site visits for instream flow projects
- Review hydrologic models
- Conduct appropriability studies
- Review Water Protection Fund grants, site visit deliverables

Technical Support Section

Technical Support Section Responsibilities

- Review WQARF Notice of Intent (NOI) to drill and abandon wells
- Review NOI outside areas of WQARF concern
- Evaluate groundwater withdrawal permit applications, including well impact analysis, for water quality implications in WQARF areas

- Evaluate groundwater withdrawal permit applications, including well impact analysis, for water quality implications outside of WQARF areas
- Evaluate AWS applications for proximity to WQARF and Comprehensive Environmental Response Compensation and Liability Act (CERCLA) sites
- Produce the annual WQARF Advisory Board report
- Inspect sites for vertical cross-contamination
- Prepare the groundwater monitoring report for Prescott

Statewide Water Conservation and Strategic Planning Division

Newly created in January 2005, this Division is responsible for interstate negotiations related to the Colorado River, support for the Arizona Water Banking Authority, Adjudication and Water rights technical support, regional watershed planning, environmental planning and other policy initiatives, such as the statewide water data inventory project (Rural Water Atlas).

Office of Conservation & Drought Management

In 2003, Governor Janet Napolitano established a Drought Task Force to develop strategies to address issues related to Arizona's on-going drought. The Drought Task Force forwarded recommendations to Governor Napolitano in Fall 2004, which included a Drought Preparedness Plan. ADWR received funding in the 2005 legislative session to establish and Office of Drought and Conservation. The purpose of this Office is to implement the Arizona Drought Preparedness Plan and to better prepare the citizens of the State of Arizona cope with drought impacts. The Drought Preparedness Plan not only provides guidance for addressing drought impacts, but also provides cooperative mechanisms and approaches for reducing vulnerability to drought. The cost of mitigating drought impacts can be reduced. The Governor's Drought Task Force also recommended the development of a Statewide Conservation Strategy. The primary focus of the Statewide Conservation Strategy is to promote a statewide conservation ethic for all water users throughout the State of Arizona. The Office of Conservation and Drought Management is responsible for implementing these programs.

The focus of the Statewide Water Conservation strategy is to expand existing conservation programs at both the state and local levels, explore, create and promote new conservation tools, promote water conservation education throughout the state, create guidelines for more efficient use of water at the local level, and provide suggestions for funding and implementing conservation programs. The overall goal of the Statewide Water Conservation effort is to achieve greater water use efficiency for the state resulting in measurable water savings.

The Drought Management Program will provide the most current information and technology to not only prepare for drought at the State and local level, but to provide management approaches to reduce impacts from drought. The Drought Management Program will provide support to State leaders, in cooperation with water users, planners, and resource managers, to prepare for and respond to current and future drought conditions in Arizona.

Policy Development and Planning Section Responsibilities

- Provide water supply and demand information for Arizona communities outside of AMAs to be published as the "Arizona Water Atlas, 2006"; this publication will provide a broad overview of water supply and demand conditions, water resource information for planning and resource development purposes and to help identify the issues and needs of rural communities.
- Develop a more systemic data collection and data management process to help to identify the issues and needs of rural communities.
- Prepare special reports, such as the ADWR review of the Upper San Pedro Basin, for AMA designation
- Support interagency activities

- Provide coordination on border region water issues
- Monitor Endangered Species Act (ESA) implications for water management
- Represent Arizona's interests in international and interstate water issues
- Support Indian water rights settlement activities
- Provide input on statewide water policy development

Water Resources Planning Section

Water Resources Planning Section Responsibilities

ADWR provides planning and technical assistance to rural Arizona where expanding populations, limited groundwater resources and unique environmental factors are major concerns. This assistance is provided primarily through partnerships with local watershed groups. Staff attend meetings throughout the State to facilitate planning objectives, provide data and hydrologic input and apprise partnerships of ADWR activities.

Current activities include supporting 17 watershed partnerships. Each watershed partnership has regular meetings; ADWR has official membership and is expected to attend. For some of the partnerships, ADWR has membership on several subcommittees or working groups. The goal is to motivate and assist the watershed partnerships organizationally, technically and financially in the development of long-range water resources management and conservation plans.

- ADWR Memberships Related to the Rural Watershed Initiative
    - Upper San Pedro: Staff Working Group, Technical Subcommittee, Administrative Subcommittee and the Partnership Advisory Council, Government Affairs Subcommittee
    - Middle San Pedro: Partnership
    - Lower San Pedro: Partnership
    - Coconino Advisory Committee and Technical Subcommittee
    - Eagle Creek: Partnership
    - Upper Gila: Partnership
    - Upper Little Colorado River: Partnership and Technical Subcommittee
    - Upper Little Colorado River Multi-Objective Management: Partnership
    - Upper Bill Williams: Partnership and Technical Subcommittee
    - Upper Hassayampa: Partnership
    - Yavapai County Water Advisory Committee: Technical and Planning Committee
    - Silver Creek: Partnership and Technical Subcommittee
    - Show Low Creek: Partnership
    - Northwest Alliance: Partnership
    - Upper Agua Fria: Partnership
    - Arizona Strip: Partnership
    - Mogollon Highlands: Partnership

- External Committee Memberships with Regular Meeting Commitments
    - Navajo Nation Municipal and Non-Municipal Task Forces
    - Oak Creek Canyon Task Force

- Population Technical Advisory Committee
- Rural Watershed Alliance
- Mohave County Water Authority
- Yavapai County Water Advisory Council
- Northern Arizona Municipal Water Users Association
- Rural Infrastructure Committee
- Northern Arizona University's Verde Watershed Research and Education Advisory Board
- Verde Watershed and Natural Resources Association

Colorado River Management Office

The Colorado River provides one-third of Arizona's water supplies through mainstream entitlements and CAP allocations. Its waters comprise the single largest amount of renewable, dependable water supply for Arizona water users'. The Secretary of the Interior, in consultation with the Seven Basin States (Arizona, California, Colorado, Nevada, New Mexico, Utah, Wyoming), manages the River. This office provides policy and legal consultation for interstate, intrastate and international activities related to the Colorado River.

Colorado River Management Responsibilities

- Make recommendations to the Secretary of the Interior regarding allocation and transfer of Colorado River and CAP water
- Project water supplies and use for Colorado River communities, CAWCD, Indian and non-Indian CAP customers and AWBA
- Consult with BOR regarding annual reservoir and River operations for the delivery of water, and regarding the five year Long Range Operating Criteria for the Colorado River
- Coordinate with BOR, CAWCD and major Arizona Colorado River water users to forecast and manage annual water use within Arizona's 2.8 maf apportionment
- Oversee implementation of the Multiple Species Conservation Plan for the Lower Colorado Basin
- Represent the State in Colorado River Basin Salinity Control Forum
- Represent the State on the Glen Canyon Dam Adaptive Management Work Group
- Represent ADWR on environmental issues related to statewide ESA and National Environmental Policy Act issues, such as response to draft recovery plans, comments on Biological Opinions and Environmental Impact Statements
- Provide technical support and analysis of future shortage impacts to Arizona Colorado River users.

Office of Water Engineering

This Office is responsible for the safety of nearly 260 nonfederal dams in Arizona. We inspect and evaluate operating dams for safety deficiencies and require owners to implement corrective actions. This Office reviews applications for proposed dams and monitors their construction. It also reviews applications for repairs to existing dams to reduce the likelihood of catastrophic failure.

Additionally, this Office mitigates flood damage through floodplain management and flood warning. It acts as the state coordinator for both the National Floodplain Insurance Program (NFIP) and the Flood Warning System.

Office of Water Engineering Responsibilities

- Perform safety inspections and identify safety deficiencies at operating dams.
- Evaluate the safety of operating dams and maintain list of Unsafe Dams.
- Negotiate grants from Dam Repair Fund to secure engineering services for repairs to the highest priority Unsafe Dams in Arizona.
- Conduct detailed reviews of applications for dam construction and repair.
- Contact owners of unregistered dams to assure that those dams become registered and meet current dam safety standards.
- Provide training on floodplain management to local, state and private sector employees.
- Evaluate the floodplain management program of each NFIP-participating AZ community.
- Provide general technical assistance regarding floodplain management to the general public.
- Coordinate with the Federal Emergency Management Agency on NFIP activities.
- Ensure that state owned flood-warning gauges and repeaters are maintained and operational.
- Through IGAs, provide financial and technical assistance to cities and counties to acquire and install gauges for fuller statewide coverage.
- Communicate with flood control districts and the National Weather Service to ensure a consistent flood warning data stream to the state-wide flood warning website year round, and to the Arizona Division of Emergency Management during flood events.

Water Quality Unit

Water Quality Unit Responsibilities

This unit coordinates with ADEQ concerning WQARF programs, including rule making, Payson's Remedial Action Program and Estes Landfill Remedial Action Program.

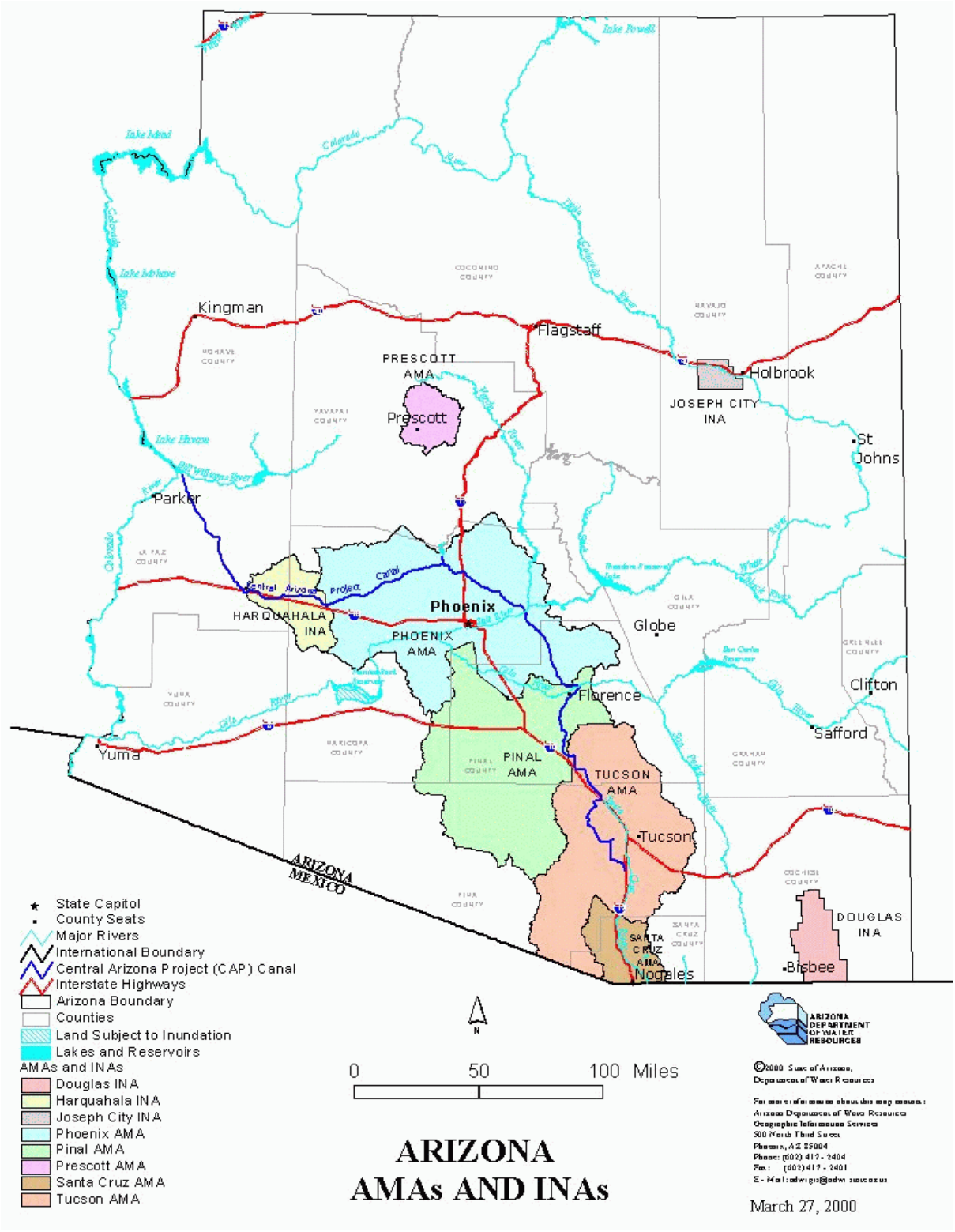
- Provide support for the WQARF Advisory Board
- Participate in negotiations for U.S. Supreme Remedial Action Plans for North Indian Bend Wash and the Apache Powder Company
- Participate in the development of the Federal Remedial Action Plan preparation for William Air Force Base

Water Management

Active Management Areas

Offices in each of the AMAs allow for a high level of customer service and ability to respond to local issues and conditions in each area. Staff is responsible for administration of the area's water rights, permits and regulatory programs, and serve as the main point of contact for members of the public and the regulated community. The AMA staff develop and enforce mandatory conservation requirements for each water use sector, process annual water use reports, review and coordinate applications for underground storage and recovery and AWS. AMAs also develop water use information and

projections and water management policy and planning alternatives, coordinate their activities with other sections of ADWR and local jurisdictions and manage grant programs for conservation and augmentation assistance and monitoring. AMA staff provide policy advice to local jurisdictions on an as-needed basis. In addition, the Phoenix and Tucson AMAs administer water rights in the Douglas, Harquahala and Joseph City INAs.



CRITICAL CHALLENGES AND OPPORTUNITIES

Short-Term

Drought/Rural Water Supply

Arizona is currently affected by the most severe drought in at least the last 100 years. In 2004, Although some portions of the State have received near-normal rainfall during the monsoon season, experts at the National Weather Service and elsewhere within the National Oceanic and Atmospheric Administration still believe that the drought may continue well into 2005 next year and possibly longer. Some climate experts believe Arizona may be in the beginning stages of a longer-term drought than has been experienced in recent history. In October 2004, reservoir conditions on the Colorado River and throughout the State were at, or near, record low levels. The Salt River Project (SRP) system was experiencing the most severe drought since 1902. In addition to increased wildfires, the drought resulted in huge economic impacts on rural areas that do not have supplemental water supplies. Water supply conditions were also critical in Flagstaff, Prescott, Williams, Mayer, Payson, Pine-Strawberry and other communities on the Mogollon Rim. However, beginning in late 2004 and continuing through February 2005, the state received heavy precipitation and the Salt River Reservoirs filled and the san Carlos Reservoir partially filled.. By June 2005, the drought had eased throughout the state, although the Monitoring Committee is watching southeastern Arizona closely because higher than normal temperatures and a weak monsoon are expected.

Even in the absence of drought, water supply conditions in the communities of rural Arizona are a serious problem. Growth rates are very high, with projected continued growth in many communities that do not have the water supplies or the financial resources to sustain it. There are inadequate mechanisms to ensure availability of water supplies to support growth in the rural areas of the State. In addition, increasing demands for groundwater will continue to impact important springs and surface water flows that support riparian and recreation areas. In response to a lack of water use data in the non-AMA areas the Governor asked for legislation to require annual water use reports from all of the community water systems throughout the state. Also, the legislation requires water system reliability plans and conservation plans to be prepared and submitted to ADWR.

Outstanding Legal Challenges/Lawsuits

ADWR has faced a significant increase in legal challenges in the last five years. As growth in the State continues at a dramatic pace, competition is increasing for the quickly diminishing supply of unallocated water. Increased environmental and neighborhood activism has led to challenges of permits that are requested by those seeking water supplies for industrial/agricultural users and for existing and new residents. ADWR programs that ensure the efficient use of water and help stretch available supplies to meet more demands have also been challenged. Administrative appeals and hearings of objections to and denials of permits and judicial review of those administrative proceedings are on the increase, particularly in the AWS and Recharge Programs.

Long-Term

Long-Term Issues Affecting all AMAs

Achievement of AMA Management Goals

The ability to achieve and maintain the long-term management goals within the AMAs is a key water management consideration for the State, and there is some question about the ability to meet these goals. To date, substantial progress has been made through use of renewable supplies, conservation programs and conversion of rights. Continued efforts will be required, but ADWR's projections show shortfalls in those efforts.

- In the Phoenix AMA, all credible projections for the year 2025 show continued overdraft conditions, though reduced from current levels
- Projections for the Tucson AMA also show greatly reduced overdraft in 2025, but the use of CAP water must increase
- The Pinal AMAs dual goal of maintaining the agricultural economy while preserving future municipal and industrial supplies can likely be met, though there are concerns about the storage and recovery of renewable supplies, drought provisions and the need to modify the AWS criteria to ensure sustainable supplies for municipal growth
- In the Prescott AMA, current uses and commitments to serve new subdivisions will result in groundwater demands that are more than double the long-term sustainable supply of groundwater
- In the Santa Cruz AMA, the goal of maintaining a safe-yield condition and local water levels is hampered by complex hydrology (inability to distinguish between surface water and groundwater), lack of adjudication of surface water rights, uncertainty of continued delivery of effluent from Mexico and the need to amend the AWS Rules

Achievement of the AMAs statutory goals and ensuring adequate, dependable water supplies will require continued development of both regulatory and non-regulatory programs and policies. In many cases, ADWR's ability to influence critical water management decisions is both indirect and insufficient. Cooperative efforts with regional entities and technically sophisticated long-term planning will be critical to achieving the AMAs water management goals.

Use of Renewable and Alternative Supplies

Conversion to non-groundwater sources is the single most important means of achieving the management goals within the AMAs. The AWS requirements are the major tool ensuring that new subdivisions in the AMAs use renewable water supplies. To continue recent positive trends, additional opportunities must be pursued to substitute renewable or imported supplies in place of mined groundwater. Expanding the types of users with mandatory replenishment obligations is an approach that has been considered in all the AMAs and by the Governor's Water Management Commission. In both the Santa Cruz and Prescott AMAs, where access to renewable supplies is very limited, local communities have expressed interest in forming water management authorities to facilitate the importation, transfer and allocation of regional supplies.

Allowable Pumping

The Code allows most existing right-holders to pump groundwater without a replenishment obligation and without regard to the impact on the management goal. In addition, a few types of new pumping are allowed, including General Industrial Use permits and exempt wells, even in areas experiencing overdraft.

Goal Refinement

The management goals of the Pinal and Santa Cruz AMAs are unique and require refinement. The Pinal AMA goal has two components: preserving the agricultural economy for as long as feasible and ensuring that municipal and industrial uses have a reliable and sustainable water supply in the future. The Santa Cruz AMA management goal requires management of local water levels, as well as maintenance of the safe-yield condition. These goals add complexity and some ambiguity to the administration of ADWR's programs, including recharge and recovery, and most pressingly, the AWS Rules. The Pinal AMAs existing AWS Rules over-allocate groundwater supplies, and the Santa Cruz AMA has not yet adopted AMA-specific AWS Rules and well-spacing criteria related to consistency with the management goal.

Sub-Area Issues

The management goals of the AMAs are administered on an AMA-wide basis and do not fully take into account localized conditions (with the partial exception of the Santa Cruz AMA). Safe-yield in the Phoenix, Tucson and Prescott AMAs would provide some overall level of resource sustainability, but would not prevent localized declines in groundwater levels and the associated adverse impacts.

Physical Availability

Currently, there are portions of the Phoenix AMA, such as the Carefree Sub-Basin, which do not have sufficient groundwater supplies to demonstrate a 100-year AWS. In other areas, notably in the Prescott AMA, shallower domestic wells run dry due to intensive groundwater pumping and drought conditions (many areas lack access to adequate groundwater supplies even in the absence of drought conditions). As further development takes place, the number of locations that are facing similar problems will increase. Over-allocation of existing supplies could also result in supply constraints and disruptions in areas that are not growing.

Land Subsidence

Land subsidence and fissuring are two of the most serious consequences of overdraft. The Phoenix, Pinal and Tucson AMAs all have measurable and ongoing levels of subsidence, and there are well-documented cases of damage to transportation, water, sewer and flood-control infrastructure. A notable example is the greater than 15 feet of land subsidence which has occurred in the vicinity of Luke Air Force Base since the 1950s. Preventive measures, including use of renewable supplies, conservation, monitoring, well spacing rules and designing infrastructure to deal with anticipated subsidence can be cost-effective alternatives to infrastructure repair. However, damage to the aquifer associated with subsidence may be irreversible.

Riparian Habitat and Perennial Flow

The riparian habitat associated with perennial and intermittent streams is among Arizona's most prized assets. Though there are relatively few naturally occurring areas remaining within the AMAs, there is growing community recognition of their ecological, cultural and economic value. There is currently no legal authority to regulate groundwater pumping adjacent to these areas.

Water Logging

Portions of the Phoenix AMA suffer from poor drainage and water levels at or near the land surface. Natural geologic formations, coupled with water use patterns, result in water logging in the vicinity of the Buckeye, Arlington and Saint Johns Irrigation Districts. Though there are statutory provisions designed to mitigate the problem, water logging is an ongoing threat to agricultural productivity and to sub-surface infrastructure.

Water Quality

Though often considered separately, there is an intimate connection between water quality and quantity. Groundwater contamination from municipal, industrial and agricultural processes is a concern in all AMAs. There is also an emerging awareness of constituents in effluent, including pharmaceuticals, disinfection by-products and viruses that may harm water supplies. In addition to the numerous human-caused pollutants that diminish or restrict the use of supplies, increased salinity associated with CAP water and effluent reuse is a concern in some areas.

Coordination

Water issues are invariably complex and multifaceted. Effective water management requires coordination to avoid inefficiencies arising from multiple supply sources, a complex regulatory environment and occasional conflicting policy objectives. As the regional representatives of ADWR, AMA staff are often in a unique position to assist in coordination. Participation levels range from publicizing and hosting meetings, to providing technical and analytical support, to initiating and encouraging new regional partnerships. Existing staff reductions have already curtailed the degree to which the AMAs can effectively serve in this capacity, to the long-term detriment of management of the State's water resources.

Regional Partnerships

The geographic and economic scale of many water resource issues lend themselves to regional solutions. ADWRs broad role in water management has often proved helpful in bringing together disparate interests. The AMAs are involved in a broad range of cooperative efforts dealing with policy, planning and outreach. Failure to maintain this role may delay or jeopardize resolution of regional issues.

Inter-Agency

Key water resource management responsibilities are split among many federal, state and local agencies. Coordination of agendas is currently inadequate and encouraging a cooperative atmosphere for long-term planning is a high priority. Key state and federal water management agencies include the CAWCD, the Central Arizona Groundwater Replenishment District (CAGRD), the AWBA, ADEQ, the Arizona Corporation Commission, the Environmental Protection Agency, the International Boundary Water Commission (IBWC), the BOR and ADWR.

Bi-National

Water use and population growth in Nogales, Sonora, directly affects the Santa Cruz AMA, which relies heavily on the effluent water generated within Sonora and on surface water inflows in the Santa Cruz River. Mexico retains a legal treaty right to its effluent. This supply, which is treated at the International Water Wastewater Treatment Plant in Nogales, Arizona, is discharged in the Santa Cruz AMA. Long-range planning and supply reliability are compromised by the uncertainty of that supply. Coordination with water users and federal, state and local agencies regarding conservation, supply planning for drought and growth is necessary. Other international activities, including those of the IBWC can significantly impact Arizona and requires close attention.

Monitoring and Planning

Water management decisions are increasingly reliant on predictive modeling and more sophisticated sources of data. ADWR has made considerable investments and progress in developing technical capabilities, but parties disputing ADWRs programs and policies have challenged the quality and completeness of some of ADWRs data, notably water budget information for the Phoenix and Prescott AMAs. These data sources form the foundation of many critical programs and planning efforts both within ADWR and externally. Ensuring the quality of those baseline data is an ADWR priority.

Recharge and Recovery Planning

The Recharge and Recovery Program has been a major policy success allowing renewable supplies, particularly CAP water, to be put to use much more extensively and less expensively than would have otherwise been possible. Recharge has also been the mechanism by which the AWBA has fulfilled the crucial objective of putting Arizona's entire Colorado River allocation to use. Some three maf have been stored in the central AMAs, and there are issues related to how that stored water will be recovered and the long-term effects of large-scale recharge and recovery. The two non-CAP AMAs (Prescott and Santa Cruz) have more limited opportunities for recharge, but have pressing needs to manage supplies in ways that could be assisted by storage and recovery. As many areas of the State become increasingly dependent on recharge and recovery, it is critical that recharge activities and utilization of storage space in our aquifers be optimized to best meet the State's land and water use needs.

Hydrologic Modeling

The Hydrology Division has developed groundwater models for each of the AMAs. The AMAs have acted in a supportive role to the Hydrology Division in the development of scenarios of future conditions. This work, in conjunction with creation of projected water budgets, is an important part of how trends, policies and proposed water resource investment programs are analyzed and evaluated. The reasonableness and utility of projections depend on detailed input from staff with different program responsibilities and a high degree of quality control, both of which can suffer without adequate resources. In addition, the models that have been developed are not as fully utilized as they could be if staffing constraints were not so severe.

Data Collection, Tracking And Dissemination

The AMAs bear primary responsibility to collect and analyze annual groundwater use data. Over time, the size and complexity of these activities have grown considerably. The AMAs must collect and track data that retains unique hydrologic and legal characteristics and integrate the data with hydrologic modeling, program administration, compliance and water budget development activities. In cooperation with Hydrology staff, each of the AMAs has recently expanded its commitment to comprehensive aquifer monitoring and implementing improvements to database design. The Hydrology Division now produces annual monitoring reports for the Prescott and Santa Cruz AMAs. In addition to increasing the accuracy of the data, efforts are underway to ensure that data can be disseminated in ways that are accessible to both technical and general audiences.

INTERSTATE COLORADO RIVER ISSUES

Mexico

Increasing water demands in Mexico are creating political pressures to increase water deliveries to Mexico, impacting the amount and dependability of Colorado River water supplies available to Arizona. The 1944 Treaty with Mexico apportions 1.5 maf of Colorado River water in normal years to Mexico, and 1.7 maf in surplus years. Minute 242 of the Treaty requires that the U.S. deliver water at the Northerly International Boundary of a quality not to exceed 115 parts per million total dissolved solids (+/-30) greater than the quality of water at Imperial Dam.

Within Mexico, approximately 2.5 million people and nearly 500,000 acres of agricultural land are completely dependent on the Colorado River. Non-governmental agencies in the U.S. and Mexico and the Mexican Government are now requesting water from the U.S. to restore and maintain habitat in the Colorado River Delta. Non-governmental organizations are also requesting more water from the U.S. be provided to Mexico for environmental purposes.

In the year 2000, Mexico and the U.S. signed Minute 306 requiring the two countries to study the environmental water needs of the Colorado River Delta within Mexico. Arizona is participating with the other six Basin States to monitor the discussions and provide input to the IBWC regarding protection of the water supplies available to the states.

Inter-Basin Water Transfers Between the Upper and Lower Colorado River Basins

The Colorado River Compact of 1922 divided the Basin into the Upper and Lower Basins and apportioned 7.5 maf to each. Arizona's entitlement comes primarily from the Lower Basin apportionment. Proposals are occasionally made to use water apportioned to the Upper Colorado River Basin in the Lower Basin and vice versa. The Colorado River Compact prohibits these water transfers. However, Utah and New Mexico need to use their Upper Basin apportionments in parts of their states that lie in the Lower Basin. Both states may invoke the dispute resolution section of the Compact to resolve this issue. The Arizona Legislature must ratify this action. The states may also ask Congress to authorize the water transfer as part of pending Indian water rights settlements. If so, the Arizona delegation must be apprised of the position of the State of Arizona.

These issues are very important to Arizona for two reasons. First, increased water uses caused by the transfer of water to the Lower Basin will impact the dependability of water supplies to Arizona. There is tremendous demand for water in California and Nevada. Opening the Compact to general inter-basin transfers could be highly detrimental to Arizona. Second, Arizona needs to support the Upper Basin states, which oppose inter-basin transfers, because such transfers would reduce water available to the Upper Basin states. Arizona has allied with the Upper Basin states for many decades in successful efforts to protect the states vital interests in negotiations with California, and this relationship is essential for the foreseeable future.

Drought conditions over the last several years have depleted storage reservoirs and renewed a long-standing conflict between Upper Basin and Lower Basin Colorado River States. The Upper Basin states dispute the Bureau of Reclamation annual minimum water release volume for Lake Powell, based on their interpretation of the compact. Any decrease in the annual water release results in an increased risk of shortage to Arizona. ADWR will continue to discuss these operational issues and monitor the possible outcome of these discussions.

INTRASTATE COLORADO RIVER ISSUES

Water Allocations

ADWR is responsible for making recommendations to the U.S. Secretary of the Interior regarding the allocation of Colorado River water to mainstream water users and to customers of the CAP. ADWR also makes recommendations on the transfers of CAP water allocations based on substantive policy statements. Arizona used its entire 2.8 maf allocation of Colorado River water in FY 2004. To ensure that the State will not exceed its entitlement ADWR must:

- Curtail or authorize to continue unauthorized water uses
- Coordinate annual water use accounting between the mainstream water users and the CAP to optimize water deliveries
- Recommend new water allocations for the CAP and mainstream users
- Review and recommend water transfers

All Colorado River water users must have a contract with the Secretary of the Interior to use Colorado River water. Several large water users on the River do not have contracts and are considered unauthorized water users. Also, many small well owners are withdrawing water from the Colorado River and must obtain permission to continue to use water. The BOR has begun a two-year rule making process to address unauthorized water users and other water contract administration issues. When BOR adopts its rules, an Arizona law will be activated that will require ADWR to manage and monitor well drilling activities along the River more closely. ADWR will also have to recommend allocations of water to entities that must secure contracts to continue their current uses. The reallocation process is an intensive public process involving public meetings, informal hearings and a decision by the director.

ADWR assists the CAP and mainstream districts with annual water use accounting so that the State can maximize its Colorado River water use, but not exceed its 2.8 maf apportionment. ADWR should consult with BOR regarding to unauthorized water users, contract changes, water use accounting and water resources policy changes. The primary benefit is the continued protection of Arizona's Colorado River apportionment.

Rural Water Management Planning on the Colorado River

Water resources information is critical to properly recommend allocations and transfers of Colorado River water. In addition, local interests frequently require assistance from ADWR in developing and implementing consensus water management solutions.

The Yuma area irrigation districts, City of Yuma, Yuma County and ADWR meet regularly to discuss water management issues that are critical to that area. The informal organization is called the Yuma Area Water Resources Management Group. This Group meets with the federal Reclamation team to discuss drainage issues, water allocation issues, salinity and desalter issues, and other water-related issues.

The Mohave County Water Authority is a political subdivision of the State created by statute for the purposes of holding water contracts for Colorado River water and for allocation of water to member agencies. Within La Paz County, there are several small communities and irrigation water users that hold contracts for Colorado River water.

Current issues include:

- Improving drainage pumping in the Yuma area
- Obtaining temporary Colorado River water supplies for the U.S. to offset the desalter bypass flows
- Preparing plans to mitigate water shortages in the Mohave County area
- Transferring water entitlements between water users in all counties.

Multi-Species Conservation Program

The Lower Colorado River Multi-Species Conservation Program (LCR MSCP) is a multi-state, federal and tribal environmental compliance program. The Program goal is to offset the impacts of specific covered actions through the implementation of a Habitat Conservation Plan.

Two events led to the formation of the LCR MSCP. In 1994, critical habitat was designated within the Lower Colorado River for the razorback sucker and the bonytail chub. In 1995, the southwestern willow flycatcher, a migratory bird that utilizes habitat within the Colorado River corridor, was listed as an endangered species. Water and power interests in the three states were concerned that these species would continue to decline and that, in response, the federal government would require unacceptable changes to dam operations, power production and water availability.

The program provides National Environmental Policy Act and Federal ESA compliance for Arizona "covered actions" including water diversions pursuant to existing Colorado River water rights, the operation and maintenance of existing facilities, and the contracting for, ordering and scheduling of federal hydroelectric power by purchasers in Arizona to maximize the economic value of such power generation within the constraints of the water release schedule.

The LCR MSCP is intended to assure that the benefits provided by the River to Colorado River communities, CAP subcontractors, power users and recreational and environmental interests are not unnecessarily reduced in amount or increased in cost. Participation in the LCR MSCP will provide a framework for ESA compliance that supports the State's continued economic growth and development. Federal authorizing legislation is being pursued.

Indian Water Rights Settlements

The U. S. Supreme Court in the Winters case bases tribal claims on the federal reserved rights doctrine outlined in 1908. When adjudicated, these rights have senior priority dates to most state-based rights. Litigation to quantify Indian water rights claims is a lengthy and expensive process. Settlement of the tribal claims benefit private and public parties by providing the water certainty necessary for long-term economic development. Arizona is currently conducting two massive stream adjudications -- the Gila River (26,500 litigants) and the Little Colorado River (3,211 litigants). Settlements may be less expensive than litigation. The greatest benefit of settlements may be the goodwill created by neighboring communities working together for Arizona's future. Arizona Water Settlements Act

Indian Water Rights Settlement

The Arizona Water Settlements Act, signed into law on December 8, 2004, as Public Law 108-451, contains several titles, and is of great importance to the State of Arizona. The Department had many roles in negotiation of the various settlements, and will have many responsibilities in implementing the various settlements, both by agreement and by changes in State law. The Act is a culmination of many negotiations, and these settlements bring additional certainty about the current and future uses of water within the State. Title I is the Central Arizona Project Settlement Act, Title II is

the Gila River Indian Community Water Rights Settlement Act, and Title III is the Southern Arizona Water Rights Settlement Act Amendments. Full enforceability of each of the titles is dependent upon meeting a number of issues and milestones for all the titles as outlined in the Act by December 31, 2007. Toward that end, the Arizona Legislature enacted HB 2728 to

Title I confirms the stipulated settlement between the United States and the CAP about the total amount of repayment by the State for the building of the CAP. Among many provisions of the settlement it provides mechanisms for acquiring water and funding for present and future tribal water settlements.

Title II confirms the Gila River Indian Community Water Rights Settlement Agreement. The settlement confirms a tribal water budget of 653,500 AF of water annually from many sources, including CAP, groundwater, and surface water from the Gila, Salt and Verde rivers. Among its many provisions it provide funding and authorization for tribal water use systems.

Title III confirms the settlement agreement for the members of the Tohono O'odham Nation near Tucson. It confirms a water budget of 76,000 AF of CAP water and groundwater, and provides authorization and funding for tribal water use systems. Congress originally enacted SAWRSA in 1982. The amendments here provide necessary changes to implement the settlement.

Quechan Tribal Settlement

The last tribal claim of *Arizona v. California* was on behalf of the Quechan Tribe of California/Arizona. Negotiations were completed in 2004 in which Arizona will recognize the Tribe's reservation in Arizona, and the Tribe will be allocated 6350 AF of first priority Colorado River water. It is expected that the U.S. Supreme Court will confirm the settlement and issue a decree in the matter in 2005.

Zuni Indian Tribe Settlement Implementation

The Zuni Indian Tribe Water Rights Settlement Act was signed into law on June 23, 2003 as Public Law 108-34. Implementation has begun toward meeting the enforceability date. The Department drafted state legislation, which was adopted in 2004, to assist the tribal acquisition of water rights on a willing seller basis. Additionally, the Department worked on amendments to the settlement agreement to conform it to the federal legislation.

Ongoing Tribal Settlement Issues

The Department is involved, either as a participant or in a leading role, in the following settlement negotiations: San Carlos Apache Tribe, the Navajo Nation, and the Yavapai-Apache Nation. The Navajo Nation negotiations are for both main stem Colorado River claims and Little Colorado River claims, as a direct result of federal litigation over management of the Colorado River. However, the Nation does have an extensive history of settlement negotiations in the Little Colorado River basin.

New settlement negotiations are expected to begin in 2005 with the Hopi Tribe, as part of an overall Little Colorado River settlement, and the White Mountain Apache Tribe.

Adjudications Issues

There are two general stream adjudications within the state. One involves water right claims filed in the Gila River watershed and the other involves water right claims filed in the Little Colorado River watershed. Progress in the adjudication of surface water rights within Arizona has been slow in recent years due to setbacks in the legal process and lack of resources. Recently, the adjudication Court has requested additional assistance from ADWR regarding claims waiting to be adjudicated. As a general matter, the Court is adjudicating Indian and federal non-Indian claims first, and

then intends to move to individual claims of which there are nearly 35,000 in the Gila and Little Colorado River adjudications combined. The adjudications are described further in the Legal Division section.

Surface Water Issues

Water Rights Located on Federal and State Land

In 1995, House Bills 2276 and 2193 were enacted which, in part, attempted to clarify ownership of water rights on state and federal land. In 1999, many of the provisions within these bills were declared unconstitutional, which left unresolved legal issues concerning water uses on federal land. The state land provisions were upheld. As a result, ADWR has taken no action regarding applications for new water rights or assignments of water rights on federal land since 1999. In addition, ADWR has not taken action on applications filed before 1999 on state lands.

Flood Control Structures

Due to the availability of federal funds, many entities throughout the State want to construct flood control structures. Water cannot be stored without being put to beneficial use and flood control is not a beneficial use by statute. This has caused a lot of controversy and has made it necessary to increase ADWR efforts to educate the public and other agencies about surface water.

Rural Watershed Initiative

The future funding for the Rural Watershed Initiative is unknown at this time. Without completing hydrologic studies in rural Arizona, most of that area will have inadequate planning information regarding the state of the groundwater system within the watersheds.

Increasing population in rural Arizona necessitate the development of water management and conservation plans to ensure adequate water supplies for the future of the rural communities and towns. The Rural Watershed Initiative was the primary source of funding for technical studies in rural Arizona. Discontinuation of funding for the Rural Watershed Initiative will also result in the loss of matching funds from other sources.

Border Water Issues

Long-term water supply availability issues in the U.S.- Mexico border region are receiving increased attention as conditions become more critical. Water using activities, population growth and drought in Mexico affect Arizona's water resources and water management efforts. Coordination with water users and other agencies in the border region regarding water conservation opportunities and water supply planning for drought and growth is necessary. ADWR is an active participant in the Border 2012 Arizona-Sonora Water Task Force, which includes the border regions outside of the Colorado Ricer area. The Task Force holds public meetings in order to identify local water resource issues and needs and to develop solutions. The initial meetings have resulted in improved communication and coordination between the U.S. and Mexico water and environment agencies, information sharing, identification of priorities, and a work plan for the next two years that includes development of a bi-national water quality and quantity database.

Power Plant Line Siting Issues

Development of new power plants in Arizona may have a significant impact on future water supply availability, both in rural communities and within AMAs. Although dry cooling methods exist, Arizona does not require the use of this technology. The Director of ADWR, or the Director's designee, is a statutorily prescribed member of the Power Plant and Transmission Line Siting Committee (Committee). This Committee considers applications for new power plants and corridors for transmission lines, and balances the need for new power sources and reliability against environmental

factors. A Certificate of Environmental Compatibility is a permit to construct, issued by the Corporation Commission upon recommendation of this Committee. ADWR reviews the water source and reliability for a proposed power plant and assesses its impact on water resources in the surrounding area, including groundwater depletion and land subsidence.

Recharge Program

Staff from each of the AMAs, the Hydrology Division and the Legal Division support this Program. The Underground Storage, Savings and Replenishment (Recharge) Program has been in place since 1986. The purpose of the Program is to maximize utilization and storage for future use of CAP, surface and effluent waters.

The Recharge Program is critical to the implementation of effective groundwater management programs. Credits generated through this Program are used in a variety of ways, including meeting AWS requirements for renewable supply use. Permits, issued by ADWR pursuant to statute, govern recharge activities in Arizona. The table below summarizes the permit status; most were issued in the last five years.

Once a permit has been issued, ADWR monitors the performance of the recharge facility to ensure that it continues to meet the statutory criteria and to track the resulting credits. ADWR staff evaluates reports that are submitted by every permit holder on at least an annual basis. Staff examines each report for accuracy and completeness as well as compliance with permit conditions, which may include water level and water quality limits, as well as other requirements. Recharge credits are then calculated based on water stored and recovered during the year. Credits are tracked internally as well as reported to permit holders. At this time, over 3 maf of recharge credits are held by more than 70 different entities.

Office of Assured and Adequate Water Supply

This Office processes all of the applications to demonstrate an AWS within AMAs and an adequate water supply outside of AMAs. These demonstrations ensure that consumers purchasing land in new subdivisions are aware of water supply availability outside of AMAs, and that a 100-year supply of water (primarily renewable) of adequate quality and quantity is available for new subdivisions inside AMAs. The numbers of applications for Assured and Adequate Water Supply continues to increase.

Office of Assured and Adequate Water Supply Responsibilities

- Processes Certificates of AWS/Adequacy
- Processes Designations of AWS/Adequacy
- Reviews applications for membership in CAGRD
- Processes amendments to Certificates/Designations
- Processes exemptions
- Issues reliance letters
- Processes annual reports from Designations

Water Management Support Section

This Section manages surface water rights and certain groundwater rights and permits, maintains water rights records, provides information to the public and provides imaging and library services.

Water Management Support Section Responsibilities

Water Right (Surface Water) Unit Responsibilities

- Issues permits, certificates and claims for rights to use surface water
- Amends surface water right records
- Prepares and conducted field investigations
- Reviews Statement of Right of Claims forms

Groundwater Unit Responsibilities

- Processes Notices of Intent to Drill a well
- Processes Notices of Intent to Abandon a well
- Processes requests for variances
- Processes applications to renew or reactivate a well driller's license
- Processes applications for a new well driller's license
- Processes applications for a single well driller's license/exams
- Conducts onsite well inspections
- Participates in administrative hearings
- Locates and caps open wells

Records Management, Document Imaging, Water Resources Information and Library Units Responsibilities

- Responds to public inquiries
- Processes fees
- Enters surface water records into database
- Enters groundwater records into database
- Available publications, reports, maps for sale:
- Participates in information/outreach events s