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**MEETING DATE:** January 22, 2015

**AGENDA ITEM:** Report on 2015 State Legislative Session and Possible Consideration of a Recommendation that the Board take Action on State Legislation and Policy Issues that Could Affect CAP, including but not limited to HB 2161

**RECOMMENDATION:** See attached document and proposed staff recommendations.

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**FINANCIAL IMPLICATIONS:** None

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**LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:**

CAWCD Board of Directors 2010 Strategic Plan:

- Leadership & Public Trust: Relationships - Customers, Relationships - Other Stakeholders
- Water Supply: Reliability of the CAP Water Supply

**PREVIOUS BOARD ACTION/ACTIVITY:**

September 4, 2014                      Public Policy Committee previewed and discussed the draft proposed 2015 State Legislative Agenda

October 2, 2014                              Board adopted 2015 State Legislative Agenda

**ISSUE SUMMARY/DESCRIPTION:**

This report describes CAP's state legislative agenda and provides an update on those issues. In addition, this update reports on and requests guidance on bills being considered by the State Legislature.

See attached documents and issue descriptions.

**SUGGESTED MOTION:**

I move that the Public Policy Committee recommend that the Board adopt a position on the following pending state legislation of interest to CAP: (staff recommendations in parentheses)

HB 2161 Central Arizona Project Board; Membership (MONITOR)

# State Legislative Issues Update

January 15, 2015

The 52nd State Legislature's First Regular Session began on Monday, January 12, 2015. January 22 is the 11th day of the session. As of January 15, 273 bills, including memorials and resolutions, have been introduced. February 21 is the final day to hear bills in their respective house of origin.

The following State Legislative Issues Update outlines the status of the Board-approved 2015 Legislative Agenda as well as other relevant state legislation and issues.

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## **Extension of CAP 4-Cent Tax**

*Seek legislation to extend the expiration date of the Central Arizona Project 4-cent ad valorem tax levied by the CAWCD from 2017 to 2045.*

### **Status as of January 15, 2015:**

A considerable amount of outreach has occurred since last fall to share information with stakeholders on this legislative proposal. CAP has held briefings with the Arizona Chamber of Commerce, the Greater Phoenix Chamber of Commerce, the Tempe Chamber of Commerce, the Tucson Chamber of Commerce, numerous cities and towns, Arizona Municipal Water Users Association, Southern Arizona Water Users Association, Agricultural officials, the RUMP Group, legislators, representatives from utilities and mines, and others.

Sen. Gail Griffin, who is chairman of the Senate Water & Energy Committee and Majority Whip, has agreed to sponsor the legislation. Discussions and briefings with legislators continue and an update on the latest will be provided at the Public Policy meeting on January 22.

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## **Central Arizona Groundwater Replenishment District (CAGR) De-Enrollment**

*Seek legislation to create a mechanism for properties to de-enroll from the CAGR under certain conditions.*

### **Status as of January 15, 2015:**

CAGR met with Arizona Department of Water Resources (ADWR) and Arizona Department of Real Estate to discuss and draft this legislation. The terms of the bill have been worked out and a sponsor has been identified, Rep. Brenda Barton.

The legislation would allow CAGR Member Lands to de-enroll voluntarily, subject to all of the following conditions: 1) the land cannot have been sold or leased to a retail purchaser or lessee; 2) no public report for the property has been issued; 3) if the lot or parcel boundaries have been recorded, the planning agency (e.g. county) has vacated them; 4) a

# State Legislative Issues Update

declaration with the county has been recorded specifying that the property's CC&Rs have been revoked; 5) the agreement between CAGR D and the municipal provider has been revoked; and 6) if a Certificate of Assured Water Supply has been issued for the property, ADWR has revoked the Certificate.

Meanwhile, Greenstone Resources (Greenstone), a private investment firm, intends to run legislation on a market alternative to CAGR D membership (see below). Although the Greenstone proposal and CAP's CAGR D de-enrollment legislation contain similar language, they are different with regard to purpose. CAGR D de-enrollment relieves "zombie" parcels that will never be built from continued CAGR D fees, while the Greenstone bill provides a mechanism for those entities who do not have a sufficient water supply to rely on something other than the CAGR D. Given the complexity of these issues and the sensitivity that exists within the water community, this may not be the optimal year for CAP to pursue its CAGR D de-enrollment legislation.

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## Arizona Department of Water Resources (ADWR) Funding

*Monitor the Legislature's budgeting processes and agency rulemaking to ensure an adequate level of funding for the Arizona Department of Water Resources is maintained.*

### **Status as of January 15, 2015:**

The Executive's proposed FY 2016 budget will be released on January 16, and staff will provide more details on ADWR funding contained in the proposed budget at the Public Policy meeting on January 22.

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## Multi-Species Conservation Program (MSCP) Funding

*Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.*

### **Status as of January 15, 2015:**

As in the past, staff will continue to reach out to Game & Fish Department personnel throughout the budget process regarding its ability to make the MSCP payment this year.

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## Arizona Water Protection Fund

*Monitor the status of the Arizona Water Protection Fund and efforts to maintain sufficient levels of funding.*

# State Legislative Issues Update

**Status as of January 15, 2015:**

No update to report at this time.

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## **Hualapai Water Rights Settlement**

*Monitor legislation necessary and appropriate to implement the Hualapai settlement.*

**Status as of January 15, 2015:**

No update to report at this time.

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## **Central Arizona Groundwater Replenishment District (CAGRDR)**

*Monitor any proposed legislation to the Central Arizona Groundwater Replenishment District to ensure CAGRDR operations are not negatively impacted.*

**Status as of January 15, 2015:**

As mentioned above, the private investment firm, Greenstone, will pursue legislation this session that provides a market alternative to CAGRDR membership for purposes of demonstration of an assured water supply. Board Members have requested staff perform some initial analysis and feedback on the draft language shared by Greenstone.

CAP staff reviewed the proposed Greenstone bill language and provided Greenstone representatives suggested language edits to the CAGRDR portion of their legislative bill draft to ensure no harm to the CAGRDR. Greenstone did accept the suggested changes.

The Greenstone bill provides a process for a CAGRDR Member Land to de-enroll from CAGRDR and rely on an alternative water supply to demonstrate an assured water supply. The process calls for the reissuance of a Certificate of Water Supply by ADWR that indicates the property will no longer rely on CAGRDR to meet assured water supply requirements (i.e. consistency with the management goals).

The legislative proposal as currently drafted does not adversely affect the CAGRDR. As of January 15, a bill has not been introduced. If a bill is introduced, staff will come back to the Board for guidance and direction.

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# State Legislative Issues Update

## Arizona Water Resources

*Monitor any new efforts to address in-state and interstate water resources. Support legislation as needed to implement multistate agreements relating to the Colorado River.*

### Status as of January 15, 2015:

No update to report at this time.

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## OTHER LEGISLATION OF INTEREST

**H.B. 2161 central Arizona project board; membership** – Representative Albert Hale has introduced legislation that would add a nonvoting tribal representative to the CAWCD Board. The tribal representative would serve a term of four years or less if they no longer hold elected office within their tribe during their term. The Governor would be required to appoint the tribal member from a list of three candidates, two of whom must be recommended by a statewide council of Indian tribes and another must represent an Indian tribe that has a population of more than 100,000 people.

With the exception of voting, the tribal representative would have full privileges of Board membership (i.e. meeting attendance, committee service, and travel reimbursement). The bill also specifies a statutory process to fill vacancies.

### **Recommended Position: MONITOR**

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**Elimination of WaterBUD** – Last Fall, the Salt River Project (SRP) indicated at the RUMP Group meeting its intention to run legislation that would repeal the definition for "water that cannot reasonably be used directly," or WaterBUD, in Arizona statutes. It is not known if a bill will indeed be introduced in the 2015 session. Board Members have requested staff perform some initial analysis and feedback on the draft language shared by SRP.

Codified in A.R.S. § 45-802.01, WaterBUD limits the amount of long-term storage credits (LTSC) that a water storer can earn with CAP water in a given year if that water could have otherwise been reasonably put to a direct use. It is a policy enacted in 1994 that encourages the use of CAP water and other renewable water supplies rather than groundwater pumping.

In practical terms, if undesignated providers (i.e. municipal providers without a designation of assured water supply from ADWR) and industrial users holding CAP subcontracts both pump groundwater in a given year and also store CAP water that could have been used directly (instead of pumping), they will not earn LTSC for all the CAP water stored. Instead, the amount of groundwater they pumped will be subtracted from the storage volume eligible to earn LTSC. For example, assume an undesignated water provider pumps 5,000 acre-feet

# State Legislative Issues Update

(AF) of mined groundwater in a given year and, during that same year, stores 7,000 AF of CAP water underground. Applying WaterBUD, the municipal provider could only accrue 2,000 AF of LTSC from storing CAP water underground. Conversely, without WaterBUD they could earn 7,000 AF of LTSC regardless of pumping.

In addition, WaterBUD restricts water storers that are pumping groundwater from buying CAP LTSC earned by someone else.

Over the years, some statutory exceptions to WaterBUD have been enacted, including water for certain mining operations, SRP's power plants, and federal Superfund sites. The exemptions allow an entity to pump groundwater for these operations but not have the amount pumped count against the amount of CAP water they may have stored during the year.

It does not appear that in the current draft to repeal WaterBUD would have a direct negative impact to CAP operations. It could result in the increase of CAP subcontractors' use of their water and therefore may reduce the amount of excess CAP water that is available to certain CAP customers. Currently, these customers include the Arizona Water Banking Authority and the CAGR and, as we move into increased long-term contract demand for CAP water and especially during times of Colorado River shortage, the repeal of WaterBUD could possibly impact the CAP Ag pool and CAP Non-Indian Agricultural priority contracts as well.

Analysis by CAP's Resource, Planning & Analysis staff indicates the repeal of WaterBUD will increase the volume of CAP entitlement water eligible to earn LTSC by approximately 83,000 to 104,000 AF.

If a bill is introduced, staff will come back to the Board for guidance and direction.

***If you have any questions or would like more information regarding any of the issues contained in this report, please contact CAP Strategic Initiatives & Public Policy, 623-869-2150.***

## Public Policy Agenda Number 2. Attachment 2.

### CAGRD MEMBER LAND DE-ENROLLMENT DRAFT LEGISLATION

#### 48-3774. **Qualification as member land; TERMINATION**

##### A. Real property qualifies as member land only if all of the following apply:

1. The real property is located in an active management area in which a part of the central Arizona project aqueduct is located.

2. The real property is not in a member service area or in a groundwater replenishment district under chapter 27 of this title.

3. The real property is not a water district member land or a parcel of water district member land, or in a water district member service area established under chapter 28 of this title.

4. The conditions stated in section 45-576.01, subsection B, paragraphs 2 and 3 are satisfied with respect to the district at the time of the qualification.

5. The owner of the real property, or other person or entity, such as a property owners' or homeowners' association, if the person or entity has proper authority, records a declaration that has been approved by the district against the real property in the official records of the county where the real property is located that:

(a) Contains the legal description of the real property.

(b) Declares the intent of the owner that the real property qualify as member land under this chapter.

(c) Declares that, in order to permit the delivery of excess groundwater to the real property, each parcel of member land thereafter established at the real property is subject to a parcel replenishment obligation and to a replenishment assessment to be determined by the district.

(d) Declares that qualifying as member land and subjecting the real property to the parcel replenishment obligation and the replenishment assessment directly benefits the real property by increasing the potential of the property to qualify for a certificate of assured water supply issued by the department of water resources pursuant to title 45, chapter 2, article 9, thereby allowing the development, use and enjoyment of the real property.

(e) Contains a covenant that is binding against the real property and each parcel of member land thereafter established at the real property to pay to the district a replenishment assessment based on the parcel replenishment obligation in an amount determined by the district pursuant to section 48-3772, subsection A.

(f) Declares that the district may impose a lien on the real property and each parcel of member land thereafter established at the real property to secure payment of the replenishment assessment and any applicable replenishment reserve fee.

(g) Declares that the covenants, conditions and restrictions contained in the declaration run with the land and bind all successors and assigns of the owner.

B. The declaration may contain covenants, conditions and restrictions in addition to those prescribed by this section. The declaration may be an amendment or supplement to covenants, conditions and restrictions recorded against developed or undeveloped land.

C. Notwithstanding subsection A of this section, no real property qualifies as member land unless the municipal provider that will provide water to the real property that is subject to the declaration records in the official records of the county where the real property is located an agreement between the district and the municipal provider that contains both of the following:

1. The legal description of the real property and the tax parcel numbers for the real property.

2. An agreement by the municipal provider to submit to the district by March 31 of each year after the recordation of the instrument the information prescribed by section 48-3775, subsection A and such other information as the district may reasonably request.

**D. REAL PROPERTY PREVIOUSLY ACCEPTED AS MEMBER LAND PURSUANT TO SUBSECTION A OF THIS SECTION TERMINATES ITS MEMBER LAND STATUS ONLY IF ALL OF THE FOLLOWING APPLY:**

**1. NO LOT OR PARCEL OF SUBDIVIDED LAND WITHIN THE REAL PROPERTY HAS BEEN SOLD OR LEASED TO A RETAIL PURCHASER OR LESSEE.**

**2. THE STATE REAL ESTATE COMMISSIONER HAS NOT ISSUED A PUBLIC REPORT FOR THE REAL PROPERTY.**

**3. IF LOT OR PARCEL BOUNDARIES WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY, THE PLANNING AGENCY HAVING PLANNING AUTHORITY OVER THE**

**REAL PROPERTY HAS APPROVED A PLAT VACATING THE LOT OR PARCEL BOUNDARIES THAT WERE PREVIOUSLY RECORDED FOR THE REAL PROPOERTY.**

**4. THE OWNER OR OWNERS OF THE REAL PROPERTY OR OTHER PERSON OR ENTITY, SUCH AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS PROPER AUTHORITY, RECORDS A DECLARATION THAT HAS BEEN EXECUTED BY THE DISTRICT AND THE DIRECTOR OF WATER RESOURCES AGAINST THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED THAT:**

**(a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY, WHICH SHALL BE SUBSTANTIALLY SIMILAR TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED IN THE DECLARATION RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.**

**(b) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS PREVIOUSLY RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION ARE REVOKED.**

**5. THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION HAS BEEN REVOKED BY MUTUAL AGREEMENT OF THE PARTIES TO THAT AGREEMENT AND THE MUNICIPAL PROVIDER HAS RECORDED NOTICE OF SUCH REVOCATION IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.**

**6. IF THE DEPARTMENT OF WATER RESOURCES HAS ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY FOR THE REAL PROPERTY, THE DIRECTOR OF WATER RESOURCES HAS REVOKED THE CERTIFICATE PURSUANT TO A WRITTEN AGREEMENT FOR REVOCATION ENTERED INTO BETWEEN THE HOLDER OF THE CERTIFICATE AND THE DIRECTOR.**

**E. FOR THE PURPOSES OF SUBSECTION D, A RETAIL PURCHASER OR LESSEE MEANS A PURCHASER OR LESSEE OF A LOT OR PARCEL OF SUBDIVIDED LANDS THAT IS ENTITLED TO RECEIVE A PUBLIC REPORT FROM THE SELLER OR LESSOR PURSUANT TO SECTION 32-2183, SUBSECTION I.**



## **GREENSTONE PROPOSED LEGISLATION**

### **Alternative Groundwater Replenishment Option For Member Lands**

**Create New A.R.S. § 45-576.08 as follows:**

#### **45-576.08 Reissuance of certificate of assured water supply for land qualifying as member land; objections**

A. The owner of land that has qualified as member land in a conservation district and for which the director has issued a certificate of assured water supply based on that qualification may apply to the director pursuant to rules adopted by the director for a reissued certificate of assured water supply that is not based on the land qualifying as member land. The director shall grant the application if the director determines that all of the following apply:

1. The state real estate commissioner has not issued a public report for the land pursuant to section 32-2183.
2. No individual lots or parcels within the land have been sold under the existing certificate.
3. Any water use on the land under the reissued certificate will be consistent with the management goal of the active management area without the land qualifying as member land.
4. The application meets all the applicable criteria for reissuance of a certificate under the rules adopted by the director.

B. If the director grants an application for a reissued certificate of assured water supply pursuant to subsection A, the director shall do both of the following after the decision becomes final and not subject to appeal:

1. Notify the conservation district in which the land is member land that the application has been granted and provide the conservation district with a copy of the reissued certificate.
2. Execute a declaration in recordable form that has been approved by the conservation district that the covenants, conditions and restrictions previously recorded against the land pursuant to section 48-3774, subsection A, paragraph 5 are revoked. The declaration shall contain the legal description of the land, which shall be substantially similar to the legal description of the land included in the declaration recorded pursuant to section 48-3774, subsection A, paragraph 5.

C. Section 45-578 shall apply to an application filed under this subsection A, except that the grounds for objection to the reissuance of the certificate are limited to whether the proposed changes in the manner in which the application meets the criteria for an assured water supply under the rules adopted by the director pursuant to section 45-576, subsection H, will result in the application satisfying those criteria.

**Amend A.R.S. § 48-3774 to add Subsection D as follows:**

D. IF THE DIRECTOR OF WATER RESOURCES NOTIFIES THE DISTRICT PURSUANT TO SECTION 45-576.08, SUBSECTION B, PARAGRAPH 1 THAT THE DIRECTOR HAS GRANTED AN APPLICATION FOR A REISSUED CERTIFICATE OF ASSURED WATER SUPPLY FOR REAL PROPERTY PREVIOUSLY ACCEPTED AS MEMBER LAND UNDER SUBSECTION A OF THIS SECTION, IF NO INDIVIDUAL LOT OR PARCEL OF SUBDIVIDED LAND WITHIN THE REAL PROPERTY HAS BEEN SOLD OR LEASED AND IF THE STATE REAL ESTATE COMMISSIONER HAS NOT ISSUED A PUBLIC REPORT FOR THE LAND PURSUANT TO SECTION 32-2183, THE FOLLOWING SHALL APPLY:

1. THE DISTRICT SHALL EXECUTE BOTH OF THE FOLLOWING:

(a) A DECLARATION IN RECORDABLE FORM THAT HAS BEEN APPROVED BY THE DISTRICT THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS PREVIOUSLY RECORDED AGAINST THE REAL PROPERTY PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION ARE REVOKED. THE DECLARATION SHALL CONTAIN THE LEGAL DESCRIPTION OF THE REAL PROPERTY, WHICH SHALL BE SUBSTANTIALLY SIMILAR TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED IN THE DECLARATION RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

(b) A DOCUMENT THAT HAS BEEN APPROVED BY THE DISTRICT REVOKING THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION FOR THE REAL PROPERTY.

2. THE REAL PROPERTY TERMINATES ITS MEMBER LAND STATUS ONLY IF ALL OF THE FOLLOWING APPLY:

(a) THE DISTRICT AND THE DIRECTOR OF WATER RESOURCES HAVE SIGNED THE DECLARATION DESCRIBED IN PARAGRAPH 1, SUBDIVISION (a) OF THIS SECTION AND THE OWNER OF THE REAL PROPERTY OR OTHER PERSON OR ENTITY, SUCH AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS PROPER AUTHORITY, RECORDS THE DECLARATION AGAINST THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

b. THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION HAS BEEN REVOKED BY MUTUAL AGREEMENT OF THE PARTIES TO THAT AGREEMENT AND THE MUNICIPAL PROVIDER HAS RECORDED NOTICE OF SUCH REVOCATION IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

**Public Policy Agenda Number 2.  
Attachment 4.**

REFERENCE TITLE: central Arizona project board; membership

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

## **HB 2161**

Introduced by  
Representatives Hale, Otondo, Rios, Steele, Wheeler: Alston, Benally,  
Bowers, Gabaldón, Gonzales, Larkin, Meyer, Saldate, Sherwood, Shope,  
Thorpe, Senator Begay

AN ACT

AMENDING SECTION 48-3708, ARIZONA REVISED STATUTES; RELATING TO MULTI-COUNTY  
WATER CONSERVATION DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 48-3708, Arizona Revised Statutes, is amended to  
3 read:  
4 48-3708. Board of directors; weighted voting; members; term;  
5 nonvoting member; compensation  
6 A. A district shall be administered by a board of directors to be  
7 determined as follows:  
8 1. The qualified electors from each county in the district that has a  
9 population of less than six hundred thousand persons shall elect one  
10 director.  
11 2. The qualified electors from each county in the district that has a  
12 population of at least six hundred thousand persons but not more than two  
13 million one hundred thousand persons shall elect four directors.  
14 3. The qualified electors from each county in the district that has a  
15 population of more than two million one hundred thousand persons shall elect  
16 ten directors.  
17 B. Each director is entitled to a weighted vote that is determined as  
18 follows:  
19 1. The director from a county represented by one director is entitled  
20 to one vote.  
21 2. The directors from a county represented by four directors are each  
22 entitled to a vote equal to the population of that county divided by the  
23 population of the least populous county and divided by four.  
24 3. The directors from a county represented by ten directors are each  
25 entitled to a vote equal to the population of that county divided by the  
26 population of the least populous county and divided by ten.  
27 C. EXCEPT FOR A DIRECTOR WHO IS APPOINTED PURSUANT TO SUBSECTION D OF  
28 THIS SECTION, a director shall be a qualified elector of the county from  
29 which the director is elected and shall serve a term of six years. Each  
30 director shall assume his duties on January 1 after the director's election  
31 OR APPOINTMENT.  
32 D. IN ADDITION TO THE DIRECTORS PRESCRIBED BY SUBSECTION A OF THIS  
33 SECTION, THE BOARD OF DIRECTORS SHALL INCLUDE ONE NONVOTING MEMBER WHO SHALL  
34 BE APPOINTED BY THE GOVERNOR FROM A LIST OF THREE PERSONS WHO HOLD ELECTED  
35 TRIBAL OFFICE FOR AN INDIAN TRIBE IN THIS STATE, TWO OF WHOM ARE RECOMMENDED  
36 BY AN ORGANIZATION THAT IS A STATEWIDE COUNCIL OF INDIAN TRIBES AND ONE OF  
37 WHOM REPRESENTS AN INDIAN TRIBE IN THIS STATE WITH A POPULATION OF MORE THAN  
38 ONE HUNDRED THOUSAND PERSONS. A PERSON APPOINTED PURSUANT TO THIS  
39 SUBSECTION:  
40 1. SHALL SERVE A FOUR-YEAR TERM OR SHALL SERVE UNTIL THE APPOINTEE IS  
41 NO LONGER HOLDING AN ELECTED TRIBAL OFFICE, WHICHEVER OCCURS EARLIER. ANY  
42 VACANCY IN THE OFFICE OF A NONVOTING MEMBER SHALL BE FILLED BY APPOINTMENT OF  
43 THE GOVERNOR FROM A LIST OF THREE PERSONS WHO HOLD ELECTED TRIBAL OFFICE FOR  
44 AN INDIAN TRIBE IN THIS STATE, TWO OF WHOM ARE RECOMMENDED BY AN ORGANIZATION  
45 THAT IS A STATEWIDE COUNCIL OF INDIAN TRIBES AND ONE OF WHOM REPRESENTS AN

1 INDIAN TRIBE IN THIS STATE WITH A POPULATION OF MORE THAN ONE HUNDRED  
2 THOUSAND PERSONS.

3 2. IS ELIGIBLE TO ATTEND AND PARTICIPATE IN MEETINGS OF THE BOARD OF  
4 DIRECTORS, SERVE ON COMMITTEES OF THE BOARD AND, EXCEPT FOR VOTING, OTHERWISE  
5 HAS FULL PRIVILEGES OF MEMBERSHIP ON THE BOARD OF DIRECTORS, INCLUDING  
6 REIMBURSEMENT FOR TRAVEL AND SUBSISTENCE WHILE ENGAGED IN THE BUSINESS OF THE  
7 DISTRICT IN THE SAME MANNER AS IS PROVIDED BY LAW FOR STATE OFFICERS.

8 ~~D.~~ E. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, a vacancy  
9 on the board of directors shall be filled by appointment by the governor.

10 ~~E.~~ F. Each director shall serve without compensation, except that the  
11 director shall be reimbursed for travel and subsistence while engaged in the  
12 business of the district in the same manner as is provided by law for state  
13 officers.

14 ~~F.~~ G. Members of the board and officers shall be public officers and  
15 shall be subject to all provisions of law applicable to such officers. The  
16 provisions of title 38, chapter 3, article 8, relating to conflict of  
17 interest, are applicable to all officers and employees of the district.

18 Sec. 2. Initial term of nonvoting tribal member

19 The initial term of office of the nonvoting tribal member of the board  
20 of directors begins on January 1, 2016 and is for a term as otherwise  
21 prescribed by section 48-3708, Arizona Revised Statutes.

**PROPOSED DRAFT LEGISLATION TO ELIMINATE WATERBUD**

Section 1. Section 45-514, Arizona Revised Statutes, is amended to read:

45-514. Mineral extraction and metallurgical processing permit; conditions for issuance; duration of permit

A. Except as provided in subsection D of this section, a person who is engaged in or proposes to engage in the extraction and processing of minerals shall be issued a permit to withdraw groundwater in the required amount, if all of the following apply:

1. The amount of groundwater available for mineral extraction, metallurgical processing and compliance with applicable environmental controls under a dewatering permit is insufficient.
2. Uncommitted municipal and industrial central Arizona project water is not available at the point where the operator's wellhead or distribution system would otherwise be, at a cost which does not exceed the current municipal and industrial central Arizona project delivery rates.
3. Other surface water of adequate quality or effluent of adequate quality is not available at the point where the operator's wellhead or distribution system would otherwise be, at a cost, including treatment costs, which does not exceed by twenty-five per cent the cost the operator would otherwise incur in withdrawing groundwater.
4. The applicant does not own or lease type 2 non-irrigation grandfathered rights originally based on withdrawals of groundwater for the extraction or processing of minerals that the applicant is not using or leasing and that can be used at the proposed location without imposing an unreasonable economic burden on the applicant.

B. A permit issued pursuant to this section shall be granted for a period of up to fifty years, subject to renewal under the same criteria used in granting the original permit.

C. If, during the duration of a mineral extraction and metallurgical processing permit, the director determines that uncommitted municipal and industrial central Arizona project water is available or surface water of adequate quality or effluent of adequate quality is available to the permittee at a cost comparable to groundwater, the director may require the permittee to use such water in lieu of groundwater.

D. Beginning January 1 of the calendar year following the year in which a groundwater replenishment district is required to submit its preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1, and except for an application to renew a mineral extraction and metallurgical processing permit, on receiving a permit application the director shall not issue a permit for a well in the district unless at the time the application is filed:

1. The director has determined that the district's plan for operation is consistent with achieving the management goal, according to section 45-576.03, subsection E, and the designation has not expired.
2. The master replenishment account, as established in section 45-858.01, does not have a debit balance in an amount in excess of the amount allowed under section 45-576.01, subsection A, paragraph 3.

~~E. If, during the duration of a mineral extraction and metallurgical processing permit issued after the effective date of this amendment to this section, the permittee earns long-term storage credits under section 45-852.01, subsection B for the storage of central Arizona project water in the active management area in which the permittee has the right to withdraw groundwater pursuant to the permit, and the central Arizona project water qualified as water that cannot reasonably be used directly due solely to the exclusion of groundwater withdrawn by the permittee for mineral extraction or metallurgical processing pursuant to section 45-802.01,~~

~~paragraph 22, subdivision (c), the director shall establish a separate subaccount for those credits pursuant to section 45-852.01, subsection A. After each calendar year in which the permit is in effect, the director shall debit the subaccount by the amount of groundwater pumped by the permittee in the active management area during that calendar year pursuant to the permit, not to exceed the amount of long-term storage credits in the subaccount. This subsection shall not apply to:~~

~~1. A mineral extraction and metallurgical processing permit issued on or before the effective date of this amendment to this section, including any renewal or modification of the permit.~~

~~2. A mineral extraction and metallurgical processing permit unless the permittee was engaged in mineral extraction and metallurgical processing within an initial active management area on or before January 1, 2011.~~

Sec. 2. Section 45-802.01, Arizona Revised Statutes, as amended by Laws 2012, chapter 312, section 2, is amended to read:

45-802.01. Definitions

(L12, ch 312, sec. 2. Eff. Until 1/1/25)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. "Reserve target" has the same meaning prescribed in section 48-3701.

18. "Storage facility" means a groundwater savings facility or an underground storage facility.

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

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

21. "Underground storage facility" means a constructed underground storage facility or a managed underground storage facility.

~~22. "Water that cannot reasonably be used directly" means water that the storer cannot reasonably put to a direct use during the calendar year, including:~~

~~(a) Except as provided in subdivision (b) or except for an agricultural improvement district as provided in subdivision (d), if the storer is a municipal provider, the amount of central Arizona project water that exceeds the amount of mined groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew mined groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of central Arizona project water stored underground during that year equal to the amount of mined groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis under section 45-851.01. In calculating the amount of mined groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant~~



~~to CERCLA or title 49, chapter 2, article 5. For the purposes of this subdivision, "mined groundwater" and "municipal provider" have the same meanings prescribed in section 45-561.~~

~~(b) If the storer is a municipal provider that has been designated as having an assured water supply pursuant to section 45-576, the amount of central Arizona project water that exceeds the amount of deficit groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew deficit groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of the central Arizona project water stored underground during that year equal to the amount of deficit groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis pursuant to section 45-851.01. In calculating the amount of deficit groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the purposes of this subdivision, "municipal provider" has the same meaning prescribed in section 45-561 and "deficit groundwater" means that amount of groundwater withdrawn within an active management area for delivery and use within a service area by a municipal provider in excess of the amount of groundwater that may be withdrawn by the municipal provider consistent with the achievement of the active management area's management goals as prescribed by rules adopted by the director pursuant to section 45-576.~~

~~(c) Except as provided in subdivision (d), if the storer is not a municipal provider, the amount of central Arizona project water stored in an active management area that exceeds the amount of groundwater withdrawn during the calendar year by the storer in that active management area. If the storer withdrew groundwater in an active management area during a calendar year in which the storer stored central Arizona project water underground in that active management area pursuant to the storage permit, the amount of central Arizona project water stored underground during that year equal to the amount of groundwater withdrawn from the active management area shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis under section 45-851.01. For the purposes of this subdivision, "municipal provider" has the same meaning prescribed in section 45-561. In calculating the amount of groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude:~~

~~(i) The amount of groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2, article 5.~~

~~(ii) The amount of groundwater withdrawn by the storer during the year for mineral extraction and metallurgical processing and delivered during that year for direct use to an irrigation district that is established pursuant to title 48, chapter 19 and that is located in the same active management area from which the amount of groundwater was withdrawn to the extent that the irrigation district or its customers demonstrate a reduction in the amount of groundwater that they otherwise would have withdrawn during that year within the irrigation district.~~

~~(iii) The amount of groundwater withdrawn by the storer during the year for mineral extraction or metallurgical processing if the storer was engaged in mineral extraction and metallurgical processing within an initial active management area on or before January 1, 2011.~~

~~(d) The amount of central Arizona project water stored in an active management area in any year after 1994 by an agricultural improvement district established pursuant to title 48,~~

~~chapter 17 for use at those portions of electrical generating facilities that are constructed or expanded after June 12, 1980, subject to both of the following:~~

~~(i) If groundwater was used during a year in an active management area at those portions of the electrical generating facilities that were owned and operated by the agricultural improvement district and that were constructed or expanded after June 12, 1980, the amount of the central Arizona project water stored during that year equal to the amount of the groundwater withdrawn during the year for use at those portions of the facilities that were owned and operated by the agricultural improvement district and that were constructed or expanded after June 12, 1980 shall not be credited to the agricultural improvement district's long term storage account but may be considered as being available for recovery by the agricultural improvement district on an annual basis under section 45-851.01.~~

~~(ii) Long term storage credits accrued as a result of the storage of the central Arizona project water may be recovered within the active management area by the agricultural improvement district only for the purpose of providing central Arizona project water to electrical generating facilities that were owned and operated by the agricultural improvement district and only pursuant to any water requirement included in a facility's certificate of environmental compatibility. Subject to section 45-854.01, the long term storage credits may be assigned by the agricultural improvement district only to the owner of an electrical generating facility for use pursuant to any water requirement included in that facility's certificate of environmental compatibility.~~

~~(e) Surface water made available by dams constructed or modified after August 13, 1986.~~

~~(f) Until the year 2025:~~

~~(i) Effluent.~~

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

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

~~(g) Water that is delivered through the central Arizona project and that is acquired by the Arizona water banking authority.~~

~~23. 22. "Water storage" means adding water to an aquifer or saving water in an aquifer pursuant to permits issued under this chapter.~~

~~24. 23. "Water storage permit" means a permit issued pursuant to section 45-831.01 to store water at a storage facility.~~

~~Sec. 3. Repeal~~

~~Section 45-802.01, Arizona Revised Statutes, as amended by Laws 2013, chapter 168, section 4, is repealed.~~

~~Sec. 4. Section 45-831.01, Arizona Revised Statutes, is amended to read:~~

~~45-831.01. Water storage permits~~

~~A. A person may apply to the director for a water storage permit and may store water at a storage facility only pursuant to a water storage permit.~~

~~B. The director may issue a water storage permit to store water at a storage facility if the director determines that all of the following apply:~~

~~1. The applicant has a right to use the proposed source of water. Any determination made by the director for purposes of this subsection regarding the validity, nature, extent or relative~~

priority of a water right claimed by the applicant or another person is not binding in any other administration proceeding or in any judicial proceeding.

2. The applicant has applied for any water quality permit required by the department of environmental quality under title 49, chapter 2, article 3 and by federal law.

3. The water storage will occur at a permitted storage facility.

C. In addition to the requirements of subsection B of this section, if the applicant has applied for a water storage permit to store water at a groundwater savings facility, the director shall not issue the water storage permit unless the applicant has agreed in writing to comply with the plan by which the quantity of groundwater saved at the facility will be proved each year.

D. If the director issues a water storage permit, the director may make, if possible, the following determinations:

1. Whether the water to be stored ~~is water that cannot reasonably be used directly by the applicant and otherwise~~ meets the requirements of section 45-852.01 for long-term storage credits.

2. If use of the water to be stored is appurtenant to a particular location, and if so, where the water may be legally used after recovery. Any determination made by the director for purposes of this subsection regarding the validity, nature, extent or relative priority of a water right claimed by the applicant or another person is not binding in any other administrative proceeding or in any judicial proceeding.

E. The director may issue a water storage permit for a period of not more than fifty years, except that:

1. On request of the holder of the permit, the director may renew the permit if the director determines that the requirements of subsection B of this section apply and, if the requirement of subsection C of this section applied at the time of issuance, that the requirement of subsection C of this section applies at the time of renewal.

2. Subject to the provisions of this chapter, the holder of long-term storage credits earned pursuant to the permit may recover the water over a period longer than the duration of the permit.

F. The holder of a water storage permit may apply to the director for approval to convey the permit to another person. The director may approve the conveyance if the director determines that the person to whom the permit is to be conveyed and the water storage will continue to meet the applicable requirements of this section. If long-term storage credits accrued pursuant to the water storage permit are being assigned pursuant to section 45-854.01 with the water storage permit, the director shall be given notice of the impending assignment of long-term storage credits at the time the holder of the water storage permit applies to convey the permit.

G. A person who holds a water storage permit may apply to the director on a form approved by the director for a modification of that water storage permit. The director may modify the permit within twenty days of receiving the application without complying with section 45-871.01 if all of the following apply:

1. The holder of the storage facility permit with which the water storage permit is affiliated has consented to the modification.

2. The modification to the water storage permit does not require a modification of the affiliated water storage facility permit.

3. The only modification requested is to add an amount of Colorado river water as a type of water to be stored under the water storage permit.

4. Water storage of Colorado river water has previously been permitted at the affiliated storage facility.

5. The person requesting the modification has the right to use the Colorado river water.
- H. A water storage permit shall include the following information:
  1. The name and mailing address of the person to whom the permit is issued.
  2. The storage facility where the water storage will occur and the name of the active management area, irrigation non-expansion area, groundwater basin or groundwater sub-basin, as applicable, in which that facility is located.
  3. The maximum annual amount of water that may be stored.
  4. If the applicable finding of subsection D of this section has been made, whether the water to be stored ~~is water that cannot reasonably be used directly by the applicant~~ **MEETS THE REQUIREMENTS OF SECTION 45-852.01 FOR LONG-TERM STORAGE CREDITS.**
  5. If the applicable finding of subsection D of this section has been made, any restrictions on where the water to be stored may legally be used.
  6. Other conditions consistent with this chapter.
  7. The duration of the permit.
- I. If the water storage will occur at a groundwater savings facility, the water storage permit shall include, in addition to the information required by subsection H of this section, the requirements of the plan by which the quantity of groundwater saved at the storage facility will be proved each year.
- J. If the director of the department of water resources decides to issue a water storage permit and the applicant has not received a water quality permit required by the department of environmental quality under title 49, chapter 2, article 3 and by federal law, the director of the department of water resources shall make receipt of the water quality permit a condition of the water storage permit and the holder of the water storage permit shall not store water until receiving the water quality permit.

Sec. 5. Section 45-852.01, Arizona Revised Statutes, is amended to read:

**45-852.01. Long-term storage accounts**

- A. The director shall establish one long-term storage account for each person holding long-term storage credits. The director shall establish subaccounts within the long-term storage account according to each active management area, irrigation non-expansion area, groundwater basin or groundwater subbasin in which the person's stored water is located. The long-term storage account shall be further subdivided by type of water, if the person holds long-term storage credits for more than one type of water.
- B. Water stored pursuant to a water storage permit at a storage facility may be credited to a long-term storage account if the director determines that all of the following apply:
  1. The water that was stored was ~~water that cannot reasonably be used directly~~ **ONE OF THE FOLLOWING TYPES OF WATER:**
    - (a) **COLORADO RIVER WATER, INCLUDING CENTRAL ARIZONA PROJECT WATER.**
    - (b) **SURFACE WATER, OTHER THAN COLORADO RIVER WATER, MADE AVAILABLE BY DAMS CONSTRUCTED OR MODIFIED AFTER AUGUST 13, 1986.**
    - (c) **EFFLUENT.**
    - (d) **IF THE STORAGE FACILITY IS IN AN ACTIVE MANAGEMENT AREA, WATER FROM OUTSIDE THE ACTIVE MANAGEMENT AREA THAT WOULD NOT HAVE REACHED THE ACTIVE MANAGEMENT AREA WITHOUT THE EFFORTS OF THE STORER.**

(e) IF THE STORAGE FACILITY IS OUTSIDE OF AN ACTIVE MANAGEMENT AREA, WATER FROM OUTSIDE THE GROUNDWATER BASIN IN WHICH THE STORAGE FACILITY IS LOCATED THAT WOULD NOT HAVE REACHED THE GROUNDWATER BASIN WITHOUT THE EFFORTS OF THE STORER.

(f) WATER THAT WAS DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT AND THAT WAS ACQUIRED BY THE ARIZONA WATER BANKING AUTHORITY.

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

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

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

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

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

1. If the water was stored at a managed underground storage facility that had not been designated at the time of storage as a facility that could add value to a national park, national monument or state park and the water stored is effluent, the director shall credit to the storer's long-term storage account fifty per cent of the recoverable amount of water that meets the requirements of subsection B of this section. For storage of effluent in a managed underground storage facility that is located in a recreational corridor channelization district established pursuant to title 48, chapter 35, the director may increase the storage credits earned from fifty per cent to ninety-five per cent if both of the following apply:

(a) The effluent was not discharged into the stream where the facility is located before the permit application for that facility was filed.

(b) The director determines that the storage of effluent in the facility will provide a greater benefit to aquifer conditions in the active management area or, if outside an active management area, to the groundwater basin than would accrue to the active management area or groundwater basin if the effluent is used or disposed of in another manner.

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

~~3. The director shall credit to the storer's long-term storage account ninety per cent of the recoverable amount of the water that meets the requirements of subsection B of this section if all of the following apply:~~

~~(a) The stored water was central Arizona project water that qualifies as water that cannot reasonably be used directly due solely to the exclusion of groundwater withdrawn by the storer for mineral extraction or metallurgical processing under section 45-802.01, paragraph 22, subdivision (c).~~

~~(b) The storer was engaged in mineral extraction and metallurgical processing within an initial active management area on or before January 1, 2011.~~

~~(c) All exterior boundaries of the storage facility that is used to store the stored water are more than twenty miles from a well owned by the storer on January 1, 2012 and that well is not an exempt well and any one or more of the following apply:~~

~~(i) The well is an existing well as defined in section 45-591, paragraph 1.~~

~~(ii) The department has issued a permit for the well under section 45-599, subsection C.~~

~~(iii) The well was drilled pursuant to a mineral extraction and metallurgical processing permit issued by the department under section 45-514.~~

4.3. Except as otherwise provided in paragraphs 1, AND 2 and 3 of this subsection, the director shall credit to the storer's long-term storage account or conservation district account one hundred per cent of the recoverable amount of water that meets the requirements of subsection B of this section if any of the following applies:

(a) The water stored was effluent.

(b) The water was stored in an active management area and the stored water is water from outside the active management area that would not have reached the active management area without the efforts of the holder of the long-term storage credits.

(c) The water was stored outside an active management area and the stored water is water from outside the groundwater basin in which the water was stored that would not have reached the groundwater basin without the efforts of the holder of the long-term storage credits.

(d) The water was stored for purposes of establishing and maintaining a replenishment reserve pursuant to section 48-3772, subsection E.

(e) The water was stored for replenishment purposes pursuant to section 48-3771 and credited directly to a conservation district account pursuant to section 45-859.01, subsection E.

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

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

1. One hundred per cent of the amount of stored water that the holder of the long-term storage credits has recovered during the calendar year pursuant to the permit.

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

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

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

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

6. The amount of long-term storage credits that are held by the Arizona water banking authority and that the authority has chosen to extinguish.

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

DRAFT



## State Legislative Update

Public Policy Committee  
January 22, 2015

Bridget Schwartz-Manock, Legislative Affairs Manager  
Strategic Initiatives & Public Policy

### Legislative Update

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- The 52<sup>nd</sup> State Legislature's First Regular Session began on January 12, 2015.
- February 21 is the last day to hear bills in their respective house of origin.





## Extension of CAP 4-Cent Tax Authority

- Considerable outreach has been conducted since last Fall to inform customers and stakeholders about the 4-cent tax and its importance to CAP, including:
  - Various chambers
  - Municipalities
  - AMWUA and SAWUA
  - Agriculture interests
- Sen. Griffin has opened a bill file to sponsor legislation to extend the tax.



## CAGRDR Member Land De-Enrollment

- CAP worked with ADWR and ADRE to develop a voluntary mechanism for CAGRDR Member Lands to de-enroll.
- The draft language establishes the specific conditions for de-enrollment.
- Rep. Barton has agreed to sponsor the legislation.
- There is question as to whether this session is optimal to pursue the bill.



## Greenstone's CAGRDR Alternative

- CAP staff provided the private water investment company named Greenstone suggested changes to the CAGRDR portion of its bill draft.
- The proposed bill establishes a statutory process for a CAGRDR Member Land to de-enroll and rely on an alternative water supply for purposes of obtaining an assured water supply from ADWR.
- CAGRDR is not adversely impacted by the current bill draft.



## Arizona Department of Water Resources Funding

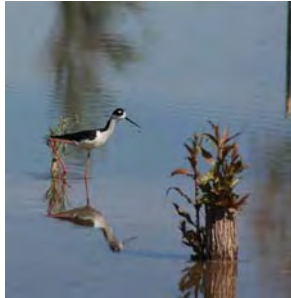
*Monitor the Legislature's budgeting processes and agency rulemaking to ensure an adequate level of funding for the Arizona Department of Water Resources' is maintained.*

Governor's proposed FY 2016 will be released on January 16.



## Multi-Species Conservation Program (MSCP) Funding

*Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.*



Staff will continue to reach out to Game & Fish officials to offer support to ensure the department's annual contribution to the MSCP.



## Legislation of Interest

### **H.B. 2161 Central Arizona Project Board; Membership**

- Rep. Hale's bill would add a nonvoting tribal member to the CAWCD Board.
- The tribal representative:
  - Is appointed by the Governor from a list of three candidates. Two must be recommended from a statewide council of tribes and the other must represent a tribe with a population of more than 100,000 people.
  - Must currently hold elected office for an Indian tribe.
  - Serves a term of four years or less if they leave elected office during their term.
- **Recommended Position: MONITOR**



## Legislation of Interest

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### **Repeal of WaterBUD**

- SRP indicated the intention to run legislation to eliminate WaterBUD provisions in statute, although a bill has not yet been introduced.
- WaterBUD, which stands for “water that cannot reasonably be used directly,” is a policy enacted by the Legislature that encourages the use of CAP and other renewable water supplies rather than pumping groundwater.
- WaterBUD limits the amount of LTSC a water storer can accrue in the same year that groundwater pumping occurs.



YOUR WATER. YOUR FUTURE.

Questions?