

Agenda Number 8

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MEETING DATE: August 2, 2015

AGENDA ITEM: Discussion and Consideration of Action on Additional 2018 Pilot System Conservation Agricultural Project

FINANCIAL IMPLICATIONS:

Impact on Budget: No expense impact on General Fund Expenses

Additional spending authority requested: None. CAWCD anticipates that CAWCD's contribution to funding Pilot System Conservation Program projects are consistent and within the approved 2018 – 2019 budget.

Impact on Reserves: None.

Impact on Rates: None. The impact that would have affected Fixed OM&R rates by decreasing deliveries of CAP water are covered by utilizing reserves originally approved for the Ag Pool Forbearance Program.

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

2016 CAWCD Board of Director Strategic Plan

- Water Supply – Optimize Reliability and Sustainability of the CAP Water Supply

Policy for Excess Water Marketing for Non-Indian Agricultural Use – 2004 Through 2030

Supplemental Policies for Marketing Excess Water for Non-Indian Agricultural Use 2004 Through 2030 established on December 5, 2002, November 4, 2010, and October 2, 2014

PREVIOUS BOARD ACTION/ACTIVITY:

CAWCD staff briefed the Board on the potential for additional Pilot System Conservation Projects in 2018 in June 2018.

CAWCD Board approved Ag Forbearance 4, August 2017.

CAWCD Board approved Ag Forbearance 3, January 2016.

CAWCD Board approved Ag Forbearance 2, November 2015.

CAWCD staff briefed the Board about this Pilot System Conservation Agricultural Pool Program on October 1, 2015.

The Board approved the Ag Pool Forbearance Program on October 2, 2014, and granted reserve authority not to exceed \$5 million for 2015-2016.

The Ag Pool Program policies were first established by the Board on May 18, 2000, modified by the Board on December 5, 2002, modified by the Board on November 4, 2010, and further modified by the Board on October 2, 2014.

ISSUE SUMMARY/DESCRIPTION:

In partnership with CAP irrigation districts, the CAWCD Board has undertaken multiple programs to provide financial and policy incentives to reduce the use of CAP Agricultural Settlement Pool water as a way to create System Water in Lake Mead. The programs have been undertaken through the 2014 Lower Basin Drought Response Memorandum of Understanding ("MOU") and the Pilot System Conservation Program ("PSCP"). To date these reductions in CAP Agricultural Settlement Pool deliveries have generated about 300,000 acre-feet of contributions to Lake Mead since 2014. In 2018, there are two active programs underway, contributing almost 50,000 acre-feet to Lake Mead. In addition, CAWCD, in partnership with CAP irrigation districts is proposing an additional 10,000 acre-feet of contributions to Lake Mead through a new PSCP.

Pilot System Conservation Program

At the April 3, 2014, meeting of the Board of Directors of CAWCD, the Board approved the material terms of the Colorado River Pilot System Conservation Agreement ("PSCA"), an interstate conservation agreement among Reclamation, CAWCD, Southern Nevada Water Authority, the Metropolitan Water District of Southern California, and Denver Water. The PSCA was signed on July 30, 2014, with implementation beginning in 2015. The purpose of the PSCA was to determine whether system conservation undertaken through voluntary, compensated reductions in consumptive use is a viable method for mitigating the impacts of ongoing drought on the Colorado River System. The PSCP has been amended to allow for additional funders to participate in the program. In 2018, the Environmental Defense Fund, with the Walton Family Foundation, elected to join the program and contribute funds for Lower Basin Projects. To date almost \$35 million has been contributed to PSCP projects that span the seven Basin States.

Lower Basin Drought Response Actions Memorandum of Understanding (MOU) – CAP Ag Pool Forbearance Program

Operating concurrently with the PSCA, the Lower Basin Drought Response Actions MOU seeks to store an additional 740,000 acre-feet of water in Lake Mead through 2017 and operates through 2019. CAWCD met its goal of contributing 345,000 acre-feet to storage in Lake Mead as part of the MOU in 2016. CAWCD has continued to make additional contributions to Lake Mead as part of the MOU through 2018.

The combination of PSCP and MOU activities have resulted in about 880,000 acre-feet of contributions from CAP and its partners to avoid shortage in Lake Mead. As part of those contributions In addition, the United States, with partners including the Gila River Indian Community, the Fort McDowell Yavapai Nation, Arizona Department of Water Resources, City of Phoenix, and Walton Family Foundation, have funded projects that contributed more than 90,000 acre-feet to Lake Mead. In total Arizona projects will have conserved about 880,000 acre-feet through 2018. It is important to note that others are also contributing to Lake Mead, including Mexico, as well as water users in California and Nevada. Together these actions have served to keep Lake Mead out of shortage through 2018 and projected through 2019, and possibly 2020.

As noted previously, CAWCD has developed and implemented four previous agricultural conservation programs. These are summarized below:

- Agricultural Forbearance 1: operating through 2015 – 2016 as part of the MOU, conserved about 163,000 acre-feet which is pending Extraordinary Conservation – Intentionally Created Surplus credits to CAWCD in Lake Mead. CAWCD funded demand reduction in 12 CAP irrigation districts.
- Agricultural Forbearance 2: operating in 2016 as part of the PSCP, conserved about 25,000 acre-feet. PSCP participants funded demand reduction in 11 CAP irrigation districts.
- Agricultural Forbearance 3: operating in 2016 – present (available through 2029) as part of the MOU, has conserved about 97,000 acre-feet. The program provides financial incentives by waiving the requirement for participating CAP irrigation districts to order and receive their CAP Ag Pool allocations prior to being eligible to participate as groundwater savings facilities. Nine CAP irrigation districts are participating in Ag Forbearance 3 in 2018.
- Agricultural Forbearance 4: operating in 2018 as part of the MOU, is conserving almost 5,000 acre-feet. CAWCD is funding reduction in demands for the three participating CAP irrigation districts.

At this time, CAWCD staff and legal counsel for the Maricopa-Stanfield Irrigation and Drainage District and the Central Arizona Irrigation and Drainage District have drafted and agreed on a standard form agreement for a Pilot System Conservation Program Ag Pool Conservation Program ("PSCP Ag Pool Conservation Program"), which is attached as Exhibit A. The material terms of the agreement are as follows:

Purpose: To generate approximately 10,000 acre-feet of system conservation water in Lake Mead through the PSCA, and to establish a source of funding that will mitigate

increases in the Pumping Energy Rate in 2019 and 2020 for irrigation districts that participate in this PSCP Ag Pool Conservation Program. The cost for conservation would be \$137.50/acre-foot and results in a Pumping Energy Rate reduction for each irrigation district of approximately \$4 per acre-foot in both 2019 and 2020.

Parties: The parties to the PSCP Ag Pool Conservation Agreement would be CAWCD and any of the four irrigation districts that previously participated in the Ag Pool Forbearance Programs, are currently receiving CAP Ag Pool water in 2018, and have a minimum of 5% of their CAP Ag Pool water that is available to them per eligible acreage in 2018 be undelivered at the time of execution of this PSCP Ag Pool Conservation Agreement.

Term: This program would turn back CAP Ag Pool Water in 2018, creating 2018 conservation in Lake Mead while providing a source of funding to the participating irrigation districts in 2019 and 2020. The agreement includes an option for renewal for additional reductions in 2019, which would generate cost reductions for the irrigation districts in 2020 and 2021.

Volume of Conservation: The goal is to conserve a total of 10,000 acre-feet of their remaining Ag Pool Water deliveries in 2018.


Funding: The cost of this program, as part of the PSCP, will total up to \$1.375 million and will be funded by the PSCP funders: Reclamation, MWD, SNWA, CAWCD, and EDF.

SUGGESTED MOTION: I move that the Board approve the standard-form Pilot System Conservation Program Ag Pool Conservation Program Agreement, authorize its execution on behalf of CAWCD in substantially the form in which it was presented today, and to utilize PSCP funds provided to CAWCD for this project for Pumping Energy Rate reductions for participating irrigation districts in 2019, 2020, and 2021, if applicable.



Past Ag Pool Forbearance Programs

- Forbearance I (2015-2016)
 - 11 Ag Pool Water users
 - Approximately 160kaf of CAP water that became EC ICS
 - Incremental cost to CAWCD of approximately \$4.3M that reduced the Pumping Energy Charge to \$36/af in 2015 and \$38/af in 2016
 - Operated as part of the Memorandum of Understanding
- Forbearance II (2016)
 - The same 11 Ag Pool Water users
 - 25,625 af of CAP water that became system conservation
 - Costs were borne by the Pilot System Conservation Program (which included financial contributions by CAWCD) and was intended to provide a reduction in the Pumping Energy Charge of approximately \$8 in 2017 and 2018
 - Operated as part of the Pilot System Conservation program



The CAP logo is located at the bottom right of the slide, featuring a stylized 'Z' shape and the text 'CAP CENTRAL ARIZONA PROJECT'.

Past Ag Pool Forbearance Programs

- Forbearance III (2016)
 - 7 Ag Pool Water users
 - Approximately 10kaf of CAP water became system conservation
 - No cost to CAWCD - participating districts only receive relief from CAP Pumping Energy rates due to non-delivery of CAP water
 - Operated as part of the Memorandum of Understanding
- Continuation of III (2017-2030)
 - An extension of Forbearance III where any participating Ag Pool Water user may forbear delivery of any or all of its Ag Pool Water in the years from 2017 to 2030.
 - Approximately 40kaf of CAP water is being forborne in 2017
 - Financial incentive to participating districts receive relief from CAP Pumping Energy rates due to non-delivery of CAP water
 - Used by CAWCD to satisfy its goal of 185,000 af of system conservation
 - Proposal to create ICS in 2018 and going forward



Past Ag Pool Forbearance Programs

- Forbearance IV (2018 & 2019)
 - 3 Ag Pool Water users
 - Approximately 5 kaf of CAP water conserved in 2018, and about 3 kaf in 2019
 - Used to make CAWCD's contribution to Lake Mead in 2018 and 2019
 - Proposal to create ICS in 2018 and 2019
 - Provides reduction in 2019 energy rate to participating districts by about \$7



Arizona Contributions to Lake Mead 2014 – 2018 (est.)

Arizona Contributions ~ 880,000 af
 CAP Excess Contributions ~ 360,000 af
 CAP Ag Programs (Ag I – IV)~ 290,000 af

CAP Forbearance Volumes (ac-ft) to Support Lake Mead Conservation Efforts
2014 - 2018

CAP Conservation Activities						
Program Name	2014	2015	2016	2017	2018	Total
Yuma Mead Irrigation and Drainage District Forbearance Program	6,827	7,180	7,509	-	-	21,516
Ag Forbearance 1 Program EC-IC3	-	80,922	82,922	-	-	163,844
Ag Forbearance 3 Program	-	-	10,827	41,763	44,663	97,253
Ag Forbearance 4 Program	-	-	-	-	4,673	4,673
Municipal Forbearance - Supply Replacement EC-IC3	-	18,000	14,000	-	-	31,000
CAP Excess	18,290	81,921	9,937	180,042	99,669	389,859
CAP Subtotals by Year*	25,117	188,023	127,016	191,804	149,000	672,960
Pilot System Conservation Program (PSCP)						
Program Name	2014	2015	2016	2017	2018	Total
Ag Forbearance 2 Program	-	-	55,045	-	-	55,045
Bullhead City	-	-	-	40	0,200	0,240
Tahona O'rosham Phase 1 & 2	-	10,080	9,817	10,080	-	29,977
Tahona O'rosham Phase 2	-	-	-	-	11,080	11,080
GRIC System Conservation Phase 2	-	-	10,000	-	-	10,000
CBT System Phase 1	-	-	1,137	7,435	-	8,572
CBT System Phase 2	-	-	-	1,137	7,435	8,572
CBT System Phase 3	-	-	-	-	1,424	1,424
PSCP Program Subtotals by Year	-	10,080	44,219	18,612	22,109	95,100
Other System Conservation Activities						
Program Name	2014	2015	2016	2017	2018	Total
Fort McDowell Toiyah National System Conservation	-	-	13,933	-	-	13,933
Gila River Indian Community System Conservation Implementation Agreement Phase 1	-	-	-	40,000	-	40,000
Gila River Indian Community System Conservation Implementation Agreement Phase 2	-	-	-	40,000	-	40,000
Other Activities Subtotals by Year	-	-	13,933	80,000	-	93,933
Grand Total Savings in Acre Feet	25,117	198,103	187,187	276,497	171,110	868,014

*Orange Italics Represent Estimates

7/23/2018

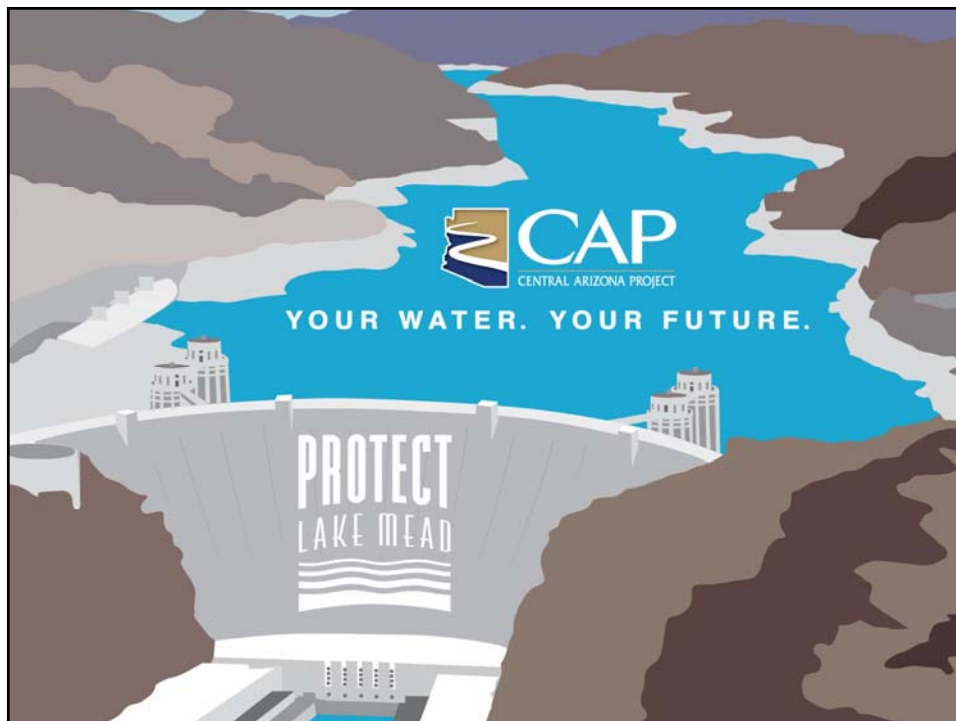
Ag Pool Forbearance (V) Proposal Pilot System Conservation Project

- Neither MSIDD, CAIDD, nor HIDD which hold large shares of Ag Pool Water, participated in Forbearance III or its continuation program
- Current proposal:
 - Participating districts will agree to reduce their CAP Ag Pool delivery by a total of 10,000 af in 2018 with an option to participate in 2019
 - CAWCD will reduce the Pumping Energy Charge by \$4/af in 2019 and 2020 for the 2018 reductions
 - If a shortage is declared in 2020, the remaining energy reduction benefit will be refunded to the participating districts
 - Other districts not fully subscribed in Forbearance III will be invited to participate



Forbearance V Cost to CAWCD

- This program will cost approximately \$1.375M in 2018
- The funding will be provided from the Pilot System Conservation Program, through contributions from:
 - Reclamation
 - CAWCD
 - MWD
 - SNWA
 - EDF-Walton Family Foundation
- CAWCD funding is through the existing PSCP funding as authorized in the CAWCD 2018-19 budget
- The conservation will result in additional water contributed to Lake Mead to assist in avoiding shortage in 2019 and potentially in 2020.



**XXXXXX DISTRICT
AND
CENTRAL ARIZONA WATER CONSERVATION DISTRICT
PILOT SYSTEM CONSERVATION
AGRICULTURAL POOL PROGRAM AGREEMENT
(AKA FORBEARANCE V)**

This Conservation Agreement (“Agreement”) is made this XX day of August, 2018, by and between the XXXXXX District (the "Contractor"), and the Central Arizona Water Conservation District ("CAWCD"), a multi-county water conservation district organized under existing laws of the State of Arizona.

RECITALS

A. On July 30, 2014, Reclamation and four municipal entities, CAWCD, the Metropolitan Water District of Southern California (“MWD”), Denver Water (“DW”), and the Southern Nevada Water Authority (“SNWA”), entered into Agreement No. 14-XX-30-W0574 for a Pilot Program (“PSCP”) for funding the creation of Colorado River System water through voluntary water conservation and reductions in use (“Funding Agreement”). The Environmental Defense Fund, Inc. (“EDF”) signed a Third-Party Contribution Agreement, dated July 6, 2018, as a Third-Party Contributor with the Walton Family Foundation, Inc. as an Additional Donor, to contribute funds for the Pilot Program in 2018.

B. The Pilot Program provides funding to develop short-term pilot projects that keep water in Lakes Powell and Mead through temporary, voluntary and compensated conservation mechanisms.

C. CAWCD submitted to Reclamation a Pilot Program proposal to reduce delivery of CAP excess Agricultural (“Ag”) Pool water to up to ten irrigation water providers that have a history of use in Maricopa, Pinal, and Pima counties by up to an aggregate 10,000 acre-feet in calendar year 2018, with an option for an additional 1-year term, to implement a CAWCD-Ag Pool System Conservation Program (“Conservation Program”). The reduction in deliveries to the participating irrigation water providers may be achieved by deficit irrigation, new conservation, fallowing, and increased use of local water supplies. The reduced deliveries to the irrigation water providers will result in a reduction in CAWCD’s total diversion estimate in 2018 and 2019, if applicable.

D. CAWCD’s Pilot Program proposal was evaluated and selected by Reclamation, MWD, DW, SNWA, and EDF through an independent process pursuant to the factors provided in

Section 5.5 of the Funding Agreement, as amended. CAWCD's Pilot Program proposal was selected by Reclamation, MWD, DW, SNWA, and EDF for inclusion in the Pilot Program.

E. In exchange for reducing deliveries of Ag Pool Water in 2018, CAWCD agrees to use PSCP monies to reduce the Pumping Energy Charge for participating irrigation districts for Ag Pool Water deliveries in 2019, 2020, and 2021, if applicable.

F. Water conserved through this Conservation Program is water that CAWCD shall forbear from diverting from the Colorado River, so that the forborne water may be retained in Lake Mead as system conservation water, thereby increasing the elevation of Lake Mead and reducing the chance of a declaration of shortage in the Lower Basin of the Colorado River.

G. It is CAWCD's intent that this Conservation Program conserve up to 10,000 acre-feet of Colorado River water in Lake Mead per year, which will require a 5-7% reduction of Ag Pool Water available per eligible acreage in 2018 and 2019, if applicable, for each eligible irrigation district.

H. It is the Contractor's desire to participate in this Conservation Program and enter into this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 "Ag Pool Water" means Excess Water from the pool of non-Indian agricultural use water established pursuant to CAWCD Policy on Excess Water Marketing for Non-Indian Agriculture Use - 2004 through 2030 dated May 18, 2000.

1.2 "CAP Repayment Stipulation" shall mean the Stipulated Judgment and the Stipulation for Judgment (including any exhibits to those documents) entered on November 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled *Central Arizona Water Conservation District v. United States, et al.*, and numbered CIV 95-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC.

1.3 "Excess Water" means "Excess Water" as that term is defined in section 5(d)(1) of the Stipulation for Judgment portion of the CAP Repayment Stipulation.

1.4 "Excess Water Agreement" is the agreement entitled Agreement Providing for the Delivery of Excess Central Arizona Project Water dated January 1, 2004.

1.5 "Forbearance Programs" means the forbearance programs that were approved by the CAWCD Board on October 2, 2014, January 7, 2016 and August 3, 2017, in which Contractors entered into agreements to reduce deliveries of a portion of their Excess Water in exchange for a reduction in the Pumping Energy Charge paid per acre-foot of Contractor's deliveries of Ag Pool Water in 2015, 2016, 2017 or 2018.

1.6 "Party" or "Parties" means one or both of the parties to this Agreement.

1.7 "Year" means a calendar year.

ARTICLE 2 TERM AND TERMINATION

2.1 Term:

(a) This Agreement shall be effective as of the date set forth in the introductory paragraph of this Agreement and shall terminate on December 31, 2020.

(b) The Contractor has an option to request an additional one year term, terminating on December 31, 2021, subject to the approval of CAWCD. To exercise this option, Contractor must provide notice, with its proposed volume of Ag Pool Water delivery reduction for 2019, to CAWCD no later than May 31, 2019. CAWCD will notify the Contractor no later than June 30, 2019 if the request is approved.

2.2 Termination: Neither Party to this Agreement shall have a right to terminate this Agreement.

ARTICLE 3 PROCEDURE FOR CONSERVING AG POOL WATER

3.1 Notwithstanding section 5(b)(iii) of the Excess Water Agreement, for the purposes of establishing the procedure for ordering and reducing deliveries of Ag Pool Water under this Agreement, the Contractor must submit a modified water delivery schedule to CAWCD for 2018 which identifies an Ag Pool Water delivery reduction of _____acre-feet upon signing of this Agreement. Upon its receipt of CAWCD approval as provided in section 2.1(b) above, the Contractor must submit a modified water delivery schedule to CAWCD identifying the volume of Ag Pool Water delivery reduction for 2019.

3.2 All water conserved through this Agreement is water that CAWCD will forbear from diverting from the Colorado River, so that the forborne water may be retained in Lake Mead as system conservation water.

3.3 The reductions of deliveries agreed to in this Agreement are in addition to reductions agreed to by Contractor and CAWCD in prior Forbearance Programs.

3.4 Except as provided in section 3.1, all terms, conditions, and provisions of the Excess Water Agreement shall remain unchanged and in full force and effect during the term of this Agreement.

ARTICLE 4 MODIFICATION OF WATER ORDER

4.1 In reducing the amount of Contractor's water delivery schedule pursuant to section 5(b)(iii) of the Excess Water Agreement referenced above, CAWCD shall use its best efforts to work with Contractor to establish a reduced water delivery schedule that is acceptable to Contractor.

ARTICLE 5 PUMPING ENERGY CHARGE REDUCTION

5.1 In exchange for agreeing to a reduction in deliveries of its Ag Pool Water deliveries in 2018, Contractor shall receive a reduction on its Pumping Energy Charge in 2019 and 2020. If this Agreement is extended one year pursuant to section 2.1(b) above, in exchange for agreeing to a reduction in deliveries of its Ag Pool Water deliveries in 2019, Contractor shall receive a reduction on its Pumping Energy Charge in 2020 and 2021. The Pumping Energy Charge reduction for each year shall be calculated in accordance with Exhibit A.

5.2 This reduction in the Pumping Energy Charge shall apply only to Contractor's Ag Pool Water that is either currently allocated to Contractor or Ag Pool Water that was previously allocated to Contractor prior to adoption of CAWCD Supplemental Policy for Marketing Excess Water for NIA Use 2004-2030 Update dated November 4, 2010. It shall not apply to Ag Pool Water that is turned back by other entities and remarketed to Contractor.

5.3 In the event the Bureau of Reclamation's August 24-Month Study in 2019 or 2020 projects Lake Mead elevation to be below 1,075 feet on January 1 of the following year, a refund

will be provided to the Contractor no later than April 30 of the following year. The refund will be based on the benefit that the Pumping Energy Charge Reduction would have provided in 2020 or 2021, respectively. However, if the Contractor's delivery reduction occurs in 2019 and the August 24-Month Study in 2019 projects shortage in 2020, then the refund payable in 2020 will be for the total Pumping Energy Charge Reduction that the Contractor would have received in 2020 and 2021.

5.4 CAWCD will perform a reconciliation for Ag Pool Water delivery reductions taken in 2018, for reduction in Pumping Energy Charge that is not applied in 2019 or 2020. Any refund due to the Contractor, net of any refund already provided due to a shortage declaration, will be sent to the Contractor by April 30, 2021. In the event any excess benefit has been provided to the Contractor, the Contractor shall reimburse the excess amount to CAWCD by April 30, 2021. If this Agreement is extended one year pursuant to section 2.1(b) above, the procedure for reconciliation for Ag Pool Water delivery reductions taken in 2019 will be the same, with the dates extended by one year.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of Contractor: Contractor represents and warrants as follows: (i) Contractor is an irrigation and drainage district duly organized and validly existing under the laws of the state of Arizona. To the best of Contractor's knowledge the execution and delivery hereof to CAWCD and the performance by Contractor of its obligation under this Agreement will not violate the terms or provisions of any agreement, document or instrument to which Contractor is a party or by which Contractor is bound; (ii) All proceedings required to be taken by or on behalf of Contractor to authorize it to make, deliver and carry out the terms of this Agreement have been duly and properly taken.

6.2 Representations and Warranties of CAWCD: CAWCD represents and warrants as follows: (i) CAWCD is a multi-county water conservation district duly organized and validly existing under the laws of the state of Arizona. To the best of CAWCD's knowledge, the execution and delivery hereof to Contractor and the performance by CAWCD of its obligation under this Agreement will not violate the terms or provisions of any agreement, document or instrument to which CAWCD is a party or by which CAWCD is bound; (ii) All proceedings required to be taken by or on behalf of CAWCD to authorize it to make, deliver and carry out the terms of this Agreement have been duly and properly taken.

ARTICLE 7
LIMITATION ON REMEDIES

7.1 No Party shall be entitled to seek any remedy for a breach of, or default under, this Agreement except for those remedies already provided in the Excess Water Agreement.

ARTICLE 8
GENERAL PROVISIONS

8.1 Interpretation: This Agreement is governed by and must be construed and interpreted in accordance with and in reference to the laws of the state of Arizona and any applicable federal laws, without regard to its conflicts of laws provisions. Any action to resolve any dispute regarding this Agreement shall be taken in a state court of competent jurisdiction located in Maricopa County, Arizona.

8.2 Third Party Rights: The Parties do not intend to create rights in or to grant remedies to any third party or others as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established thereunder.

8.3 Assignment: No Party may assign, delegate, or otherwise transfer this Agreement, in interest therein, or the Party's rights or obligations under this Agreement without the prior written consent of the other Party.

8.4 Amendments: This Agreement may be modified, amended or revoked only by the express written agreement of the Parties hereto.

8.5 Waiver: No delay in exercising any right or remedy shall constitute a waiver unless such right or remedy is waived in writing signed by the waiving Party. The waiver by either Party of a breach of any term, covenant, or condition in this Agreement shall not be deemed a waiver of any other term, covenant, or condition of this Agreement.

8.6 Severability: Any determination by any court of competent jurisdiction that any provision of this Agreement is invalid or unenforceable does not affect the validity or enforceability of any other provision of this Agreement.

8.7 Captions: All captions, titles, or headings in this Agreement are used for the purpose of reference and convenience only and do not limit, modify, or otherwise affect any of the provisions of this Agreement.

8.8 Notices: Except as otherwise required by law, any notice given in connection with this Agreement must be in writing and must be given by personal delivery, overnight delivery, facsimile, or United States certified or registered mail. Any such notice must be addressed to the appropriate Party at the following address (or at any other address as a Party may hereafter designate by written notice given as required by this paragraph):

CONTRACTOR:

For delivery use: _____

For U.S. Mail use: _____

CAWCD:

For delivery use: c/o General Manager
23636 N. 7th Street
Phoenix, AZ 85024

For U.S. Mail use: c/o General Manager
P.O Box 43020
Phoenix, AZ 85080-3020

Notice is deemed to have been given on the date on which notice is personally delivered, delivered to an overnight delivery service, transmitted by facsimile or mailed. Notice is deemed to have been received on the date on which the notice is actually received or delivery is refused.

8.9 Additional Acts and Documentation: Each Party, upon the request of the other Party, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

8.10 Attorneys' Fees: In the event it becomes necessary for any Party to institute legal proceedings to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to collect its costs and reasonable attorneys' fees from the non-prevailing party.

IN WITNESS WHEREOF, the Parties sign this Agreement to be effective on the day and year first written above.

CAWCD: **CENTRAL ARIZONA WATER CONSERVATION DISTRICT**

By: _____

Its: _____

ATTEST:

CONTRACTOR: _____

By: _____

Its: _____

ATTEST:

EXHIBIT A
CALCULATION OF PUMPING ENERGY CHARGE REDUCTION

$$\text{Annual Pumping Energy Charge Reduction per Acre-Foot} = \frac{(A * B)}{(C * 2)}$$

where:

A = The rate of compensation approved for use by the PSCP pursuant to a System Conservation Implementation Agreement between the United States and CAWCD for conservation of Colorado River water through the reduction of deliveries stated in this Agreement. The rate is agreed to be \$137.50 per acre-foot of delivery reduction.

B = The acre-foot volume of reduced delivery of Ag Pool Water taken by this Contractor, identified in Article 3.1.

C = The annual acre-foot volume of Ag Pool Water that is scheduled to be delivered to this Contractor in the year that the Pumping Energy Charge Reduction will be applied. A separate volume could be used for each of the two years that the Pumping Energy Charge Reduction will be applied.