STORAGE AND INTERSTATE RELEASE AGREEMENT

among

The United States of America, acting through the Secretary of the Interior; the Arizona Water Banking Authority; the Southern Nevada Water Authority; and the Colorado River Commission of Nevada

WITNESSETH, THAT:

Recitals

A. The Secretary of the United States Department of the Interior (Secretary) in 43 CFR 414.3(c) authorized the United States Bureau of Reclamation, Lower Colorado Region, to execute and administer this Storage and Interstate Release Agreement (Agreement) on behalf of the United States. References to the Secretary in this Agreement include the United States Bureau of Reclamation, Lower Colorado Region.

B. The Arizona Water Banking Authority (AWBA) is expressly authorized by A.R.S. § 45-2401 *et seq.* to enter into Storage and Interstate Release Agreements and develop Intentionally Created Unused Apportionment (ICUA). 43 CFR 414.2(1).

C. The Southern Nevada Water Authority (SNWA) is a Nevada joint powers agency and political subdivision of the State of Nevada, created by agreement dated July 25, 1991, as amended November 17, 1994, and January 1, 1996, pursuant to N.R.S. §§ 277.074 and 277.120. SNWA is authorized by N.R.S. § 538.186 to enter into this Agreement and, pursuant to its contract issued under section 5 of the Boulder Canyon Project Act of 1928, SNWA has the right to divert ICUA released by the Secretary for use within the State of Nevada pursuant to Article II(B)(6) of the Decree in *Arizona v. California*, 376 U.S. 340, 343 (1964).

D. The Colorado River Commission of the State of Nevada (CRCN) is an agency of the State of Nevada, authorized generally by N.R.S. §§ 538.041 through 538.251. CRCN is authorized by N.R.S. § 538.186 to enter into this Agreement. CRCN, in furtherance of the State of Nevada's responsibility to promote the health and welfare of its people in Colorado River matters, enters into this Agreement to facilitate the banking of Colorado River water, the creation of Long-term Storage Credits and the establishment and maintenance of a Long-term Storage Account for SNWA.

E. On July 3, 2001, AWBA, SNWA, and CRCN entered into an Agreement for Interstate Water Banking for the purpose of creating a program of interstate banking of Colorado River water in Arizona for the benefit of SNWA. Under this program, AWBA will

acquire and store mainstream Colorado River water in Arizona, creating Long-term Storage Credits to be held for SNWA in an account established with ADWR, and at a later date recover the Long-term Storage Credits and exchange the recovered water with Colorado River water users in Arizona to develop ICUA.

F. The Boulder Canyon Project Act and Article II(B)(6) of the Decree, taken together, authorize the Secretary to release unused Arizona apportionment for use in Nevada. Pursuant to such authority and for the purpose of increasing the efficiency, flexibility, and certainty of Colorado River management and thereby helping satisfy the regional water demands that exist in the area served by SNWA, the Secretary promulgated regulations (43 CFR Part 414) to establish a procedural framework for facilitating interstate off-stream banking transactions, including a commitment by the Secretary to release ICUA as a part of such transactions, consistent with those regulations.

G. ICUA released under this Agreement will provide SNWA with a supplemental water supply that is critical to the economy, health and safety of the area served by SNWA pending the development of other long-term sources of water supply.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the Secretary, AWBA, SNWA, and CRCN hereby agree as follows:

Article 1
Definitions and Term

1.1 Definitions. The following terms shall have the meaning defined here. All defined terms shall be identified by initial letter capitalization.

1.1.1 "ADWR" shall mean the Arizona Department of Water Resources.

1.1.2 "Agreement" shall mean this Storage and Interstate Release Agreement.

1.1.3 "Agreement for Development of Intentionally Created Unused Apportionment" shall mean that agreement between AWBA and the Central Arizona Water Conservation District dated December 18, 2002.

1.1.4 "Agreement for Interstate Water Banking" shall mean that agreement among AWBA, SNWA and CRCN dated July 3, 2001.

1.1.5 "AWBA" shall mean the Arizona Water Banking Authority.

1.1.6 "AWBA Plan of Operation" shall mean the plan by which AWBA shall operate during the Year as defined in A.R.S. § 45-2456.

1.1.7 "Basin States" shall mean the Colorado River Basin States of Arizona, California, Colorado, Nevada, New Mexico, Wyoming, and Utah.

1.1.8 "CAP" shall mean the Central Arizona Project, as authorized by the Colorado River Basin Project Act, 43 U.S.C. § 1501 *et seq*.

1.1.9 "CAWCD" shall mean the Central Arizona Water Conservation District.

1.1.10 "CRCN" shall mean the Colorado River Commission of Nevada.

1.1.11 "Decree" shall mean the Decree entered by the United States Supreme Court in *Arizona v. California*, 376 U.S. 340 (1964), as supplemented or amended.

1.1.12 "Entitlement Holder" shall mean a holder of an authorization to beneficially use Colorado River water pursuant to (i) the Decree; (ii) a water delivery contract with the United States through the Secretary; or (iii) a reservation of water from the Secretary.

1.1.13 "ICUA" shall mean Intentionally Created Unused Apportionment as that term is defined in 43 CFR 414.

1.1.14 "Long-term Storage Credit" shall mean Long-term Storage Credit as defined in A.R.S. § 45-802.01.

1.1.15 "SNWA" shall mean the Southern Nevada Water Authority.

1.1.16 "SNWA Interstate Account" shall mean the Long-term Storage Credit Sub-account established by AWBA with ADWR under the terms of this Agreement and the Agreement for Interstate Water Banking.

1.1.17 "Storage Facility" or "Storage Facilities" shall mean an Underground Storage Facility or a Groundwater Savings Facility as those terms are defined in A.R.S. § 45-802.01. "Storage facilities" do not presently include facilities constructed or financed by the United States.

1.1.18 "Water Stored " means the amount of Long-term Storage Credits properly credited to the SNWA Interstate Account under applicable Arizona law and the Agreement for Interstate Water Banking. The amount of "Water Stored" under this agreement will always be less than the amount of water diverted for storage.

1.1.19 "Year" shall mean calendar year.

1.2 Term of the Agreement

This Agreement shall commence on the date of execution by all parties and shall continue until June 1, 2050, or until termination of the Agreement for Interstate Water Banking, whichever is sooner.

Article 2
Water Available for Storage

2.1 Colorado River water available for storage for purposes of this Agreement shall be within either (i) the State of Arizona's basic or surplus apportionment, apportioned to the State of Arizona under Articles II(B)(1) or II(B)(2) of the Decree; or (ii) the State of Nevada's unused basic or surplus apportionment, apportioned to the State of Nevada under Articles II(B)(1) and II(B)(2) of the Decree and released to the State of Arizona under Article II(B)(6) of the Decree.

2.2 Colorado River water apportioned to the State of Nevada under Articles II(B)(1) and II(B)(2) of the Decree may be used for storage in the State of Arizona under this Agreement in accordance with 43 CFR 414.3(a)(3) only if the following conditions are met:

2.2.1 The Secretary has decided that such unused Nevada apportionment shall be released for Consumptive Use within Arizona under Article II(B)(6) of the Decree.

2.2.2 The AWBA has agreed that it will accept delivery of such water and store it for the benefit of SNWA in accordance with the terms of the Agreement for Interstate Water Banking.

2.3 Before any water is diverted from the Colorado River for storage under this Agreement, it shall first be offered to all Entitlement Holders within Arizona for diversion within their entitlements for purposes other than interstate transactions as provided in 43 CFR 414.3(a)(2).

2.4 The water available for storage shall be diverted from the Colorado River and delivered to Storage Facilities by CAWCD, utilizing CAP facilities constructed by the United States.

Article 3
Storage Facilities and Accrual of Long-term Storage Credits

3.1 AWBA shall store water for the benefit of SNWA pursuant to the Agreement for Interstate Water Banking. All water shall be stored within the State of Arizona in the Storage Facilities for which AWBA has or then has storage agreements. 43

CFR 414.3(a)(1). A listing of the potential Storage Facilities to be utilized is provided in the AWBA storage facilities inventory dated March 1, 1997. Additional storage facilities may be needed for Arizona use. If such facilities are permitted by ADWR and developed by Arizona entities, and if AWBA chooses to use those Storage Facilities for interstate banking, AWBA shall update the 1997 Facility Inventory to include those additional facilities. If the 1997 Facility Inventory is updated, unused storage capacity at those additional facilities may be used for interstate water banking.

3.2 The Storage Facilities utilized in each Year shall be identified in the AWBA Plan of Operation.

3.2.1 The AWBA Plan of Operation may be modified in accordance with A.R.S. § 45-2456 subject to the provisions of the Agreement for Interstate Water Banking.

3.2.2 AWBA shall notify the Secretary in writing of any change in the AWBA Plan of Operation that may affect the amount or location of water to be stored under the Agreement for Interstate Water Banking.

3.3 AWBA shall establish a Long-term Storage Sub-Account with ADWR entitled the "SNWA Interstate Account." AWBA shall manage the SNWA Interstate Account so as to accommodate the storage and recovery of water for the benefit of SNWA in the manner provided in this Agreement and the Agreement for Interstate Water Banking. AWBA shall ensure that ADWR timely and properly credits or debits the SNWA Interstate Account with the correct number of Long-term Storage Credits under applicable Arizona law for each Year. AWBA shall ensure that the Year-end balance of Long-term Storage Credits in the SNWA Interstate Account is correct.

3.3.1 Except as provided in sub-articles 3.3.2 and 3.3.3, SNWA shall not be entitled to the storage of water under this Agreement or the assignment of existing Long-term Storage Credits pursuant to sub-article 3.3.4 to the extent such storage or assignment would result in Long-term Storage Credits credited to the SNWA Interstate Account in excess of 200,000 acre-feet in any Year, or in excess of 1,200,000 acre-feet over the entire period of this Agreement.

3.3.2 SNWA shall be entitled to all Long-term Storage Credits held by CAWCD for SNWA on the effective date of this Agreement that were developed pursuant to a demonstration project developed by CAWCD in 1992 and modified in 1994 to test the feasibility of underground storage of Colorado River water supplies and subsequently transferred to AWBA for credit to the SNWA Interstate Account. The 50,000 acre-feet of Long-term Storage Credits transferred to AWBA under this sub-article shall not be counted for purposes

of determining whether either of the limitations specified in sub-article 3.3.1 has been exceeded.

3.3.3 During the term of this Agreement, AWBA may cause the assignment of Long-term Storage Credits into and out of the SNWA Interstate Account by notifying ADWR of such assignment. If an equal number of Long-term Storage Credits are transferred into and out of the SNWA Interstate Account in a single transaction with ADWR, then the transaction shall not be counted for purposes of determining whether either of the limitations specified in sub-article 3.3.1 has been exceeded.

3.3.4 During the term of this Agreement, Long-term Storage Credits may be assigned to AWBA for credit to the SNWA Interstate Account for purposes of increasing the number of Long-term Storage Credits available to SNWA. Any such assignment must have the consent of AWBA. If Long-term Storage Credits are assigned to AWBA for credit to the SNWA Interstate Account under this sub-article, those credits shall be counted for purposes of determining compliance with both of the limitations specified in sub-article 3.3.1.

3.4 The provisions of this sub-article 3.4 shall govern reports by AWBA to the Secretary and incorporation of the AWBA reports into the Secretary's accounting under Article V of the Decree.

3.4.1 By December 31 of each Year, AWBA shall provide the Secretary with an estimate of the Long-term Storage Credits to be developed for and credited to the SNWA Interstate Account in the following Year. AWBA shall update that estimate monthly during the course of the Year and provide a final estimate at the end of that Year. The estimate and updates are to be considered provisional until AWBA makes its final annual accounting to the Secretary by September 1 of the Year following the Year of the development of the Long-term Storage Credits.

3.4.2 AWBA shall prepare and submit to the Secretary and the States of Arizona, California, and Nevada by September 1 of each Year a final verified accounting for the prior Year of: (i) the beginning balance of Long-term Storage Credits in the SNWA Interstate Account; (ii) the amount of Colorado River water diverted from the mainstream for the purpose of interstate water banking in that year, and the amount of Water Stored resulting from that diversion; (iii) any Long-term Storage Credits properly assigned and transferred to or from the SNWA Interstate Account under sub-articles 3.3.2, 3.3.3, or 3.3.4; (iv) any Long-term Storage Credits assigned from the SNWA Interstate Account during that Year under sub-article 5.8; (v) the net Long-term

Storage Credits in the SNWA Interstate Account at the end of the Year; and (vi) the cumulative amount of Long-term Storage Credits properly credited to the SNWA Interstate Account for purposes of determining compliance with the 1,200,000 maximum credit accrual specified in sub-article 3.3.1.

3.4.3 Submission by AWBA of a report in compliance with sub-article 3.4.2 shall constitute compliance with the requirements of 43 CFR § 414.4(a) as it is in effect on the date of execution of this Agreement.

3.4.4 The Secretary shall include a supplement in the Secretary's annual Article V Decree accounting report titled "Water Diverted and Stored in Arizona for the Benefit of SNWA."

3.4.4.1 The Secretary will account for the water that is diverted by CAWCD for storage by AWBA as a consumptive use in the State of Arizona for the year in which it is diverted and stored.

3.4.4.2 The Secretary will account for the diversion and consumptive use of ICUA by SNWA as a consumptive use in the State of Nevada of unused apportionment of the State of Arizona made available by the Secretary under Article II(B)(6) of the Decree for use by SNWA in accordance with the terms of this Agreement.

3.4.4.3 The supplement shall reflect as Water Stored, expressed in terms of acre-feet, the provisional Long-term Storage Credits identified in the AWBA reports submitted pursuant to sub-article 3.4.1 and shall identify these as provisional estimates for informational purposes only. The supplement shall also reflect as Water Stored the verified Long-term Storage Credits identified in the AWBA final verified accounting submitted pursuant to sub-article 3.4.2 subject to such review of the underlying books and records as the Secretary deems appropriate.

3.4.5 All records of AWBA concerning the amount of Water Stored in that Year, including all records used by AWBA to prepare the final verified accounting, shall be available for inspection by the Secretary.

3.5 Accrual of Long-term Storage Credits in the SNWA Interstate Account at certain Storage Facilities does not mean that those Long-term Storage Credits will be recovered at those same Storage Facilities. Recovery of Long-term Storage Credits shall be in accordance with the Agreement for Interstate Water Banking, the Agreement for Development of Intentionally Created Unused Apportionment, and applicable Arizona law.

Article 4
Development of Intentionally Created Unused Apportionment

4.1 AWBA shall develop ICUA for the benefit of SNWA in accordance with the provisions of this Agreement, the Agreement for Interstate Water Banking, and the Agreement for Development of Intentionally Created Unused Apportionment. All actions that AWBA takes to develop ICUA shall be consistent with the laws of the State of Arizona.

4.2 AWBA shall only use means to develop ICUA under this Agreement that have been approved by the Secretary. Two such approved means are the recovery and exchange method and the credit exchange method. AWBA may also use any other means of developing ICUA during the term of this Agreement provided such means comply with CFR Part 414 and are first approved by the Secretary.

4.2.1 The recovery and exchange method requires that Long-term Storage Credits in the SNWA Interstate Account be recovered and the recovered water exchanged for Colorado River water that would otherwise have been delivered through the CAP in that Year. The Long-term Storage credits may be recovered by CAWCD or by another entity scheduled to receive water from CAWCD in the Year of recovery.

4.2.2 The credit exchange method requires that Long-term Storage Credits in the SNWA Interstate Account be exchanged for Colorado River water that would otherwise have been delivered through the CAP for underground storage in that Year. The recipient of the credits shall be an entity scheduled to receive water from CAWCD for purposes of underground storage in the Year of recovery.

4.3. AWBA shall prepare an Interstate Recovery Schedule in accordance with the terms of the Agreement for the Development of Intentionally Created Unused Apportionment and the Agreement for Interstate Water Banking. AWBA shall meet and confer with the Bureau of Reclamation in the preparation of the Interstate Recovery Schedule. ICUA shall not exceed 100,000 acre-feet in any Year under this Agreement.

4.4 The Interstate Recovery Schedule shall set forth the means by which AWBA intends to create ICUA.

4.4.1 If AWBA intends to create ICUA using the recovery and exchange method, then the Interstate Recovery Schedule shall demonstrate that there is sufficient recovery capacity to recover the necessary Long-term Storage Credits from the SNWA Interstate Account and shall describe how the credits will be recovered and delivered through the CAP or how the credits will be recovered by individual CAP customers in lieu of their scheduled CAP deliveries.

4.4.2 If AWBA intends to create ICUA using the credit exchange method, then the Interstate Recovery Schedule shall demonstrate that CAWCD has received sufficient orders for the delivery of Colorado River water for underground storage and shall identify the entity or entities accepting the transfer of Long-term Storage Credits in lieu of the delivery of Colorado River water.

4.4.3 If AWBA intends to create ICUA using another method approved by the Secretary, after consultation with the Governors' representatives of the Basin States, then the Interstate Recovery Schedule shall include such information as required by the Secretary for that method.

4.5 AWBA shall require that any Agreement for Development of Intentionally Created Unused Apportionment contain a provision requiring CAWCD to accept Long-term Storage Credits from the SNWA Interstate Account in exchange for Colorado River water that would have otherwise been diverted into the CAP by CAWCD and to reduce its consumptive use of Colorado River water in accordance with that exchange. The Agreement for Development of Intentionally Created Unused Apportionment shall allow CAWCD to meet all scheduled deliveries to Indian contractors, CAWCD subcontractors and other CAP water users, through a combination of Colorado River water and recovered Long-term Storage Credits.

4.6 AWBA shall require that any Agreement for Development of Intentionally Created Unused Apportionment also provide that any Long-term Storage Credits accepted by CAWCD pursuant to this Article 4 shall be accounted for by CAWCD as water diverted from the Colorado River for purposes of determining the amount of water that CAWCD may lawfully divert from the Colorado River in the Year of development of ICUA.

4.7 In any Year that SNWA anticipates requesting the release of ICUA under sub-article 5.1, SNWA shall, by June 1, make a preliminary request to the AWBA for the development of ICUA in accordance with the terms of the Agreement for Interstate Water Banking. Such preliminary request shall be in writing and shall specify the quantity of the requested ICUA. A copy of such preliminary request shall be provided to the Secretary at the same time that it is made to AWBA.

4.8 By December 1 of any year in which SNWA has made a request for development of ICUA in the following Year under the Agreement for Interstate Water Banking, AWBA shall prepare and deliver to Secretary three certifications: (i) a Development of ICUA Certification; (ii) an Interstate Recovery Schedule Certification; and (iii) an Upcoming Year Delivery Certification. These three certifications may be combined in a single document.

4.8.1 The Development of ICUA Certification shall certify: (i) that sufficient Long-term Storage Credits exist in the SNWA Interstate Account to support the

development of the requested ICUA; (ii) that ICUA will be developed in the upcoming Year in an amount equal to the request using an approved means; (iii) that such ICUA otherwise would not exist; and (iv) that the notice under sub-Article 4.11 has been given. The Development of ICUA Certification shall request that the Secretary release the ICUA for use in Nevada pursuant to Article II(B)(6) of the Decree and this Agreement.

4.8.2 The Interstate Recovery Schedule Certification shall state that the Interstate Recovery Schedule has been prepared after consultation with the Bureau of Reclamation and that the Interstate Recovery Schedule sets forth the means by which AWBA intends to develop ICUA utilizing Long-term Storage Credits in the SNWA Interstate Account and the quantity of ICUA the AWBA intends to develop. The Interstate Recovery Schedule Certification shall certify that the contractual commitments by CAWCD necessary to develop ICUA remain in full force and effect and that CAWCD will reduce its consumptive use of Colorado River water in the amount of the requested ICUA. A copy of the Interstate Recovery Schedule shall be included with the Interstate Recovery Schedule Certification. The Secretary shall provide a copy of the Interstate Recovery Schedule and the Interstate Recovery Certification to the Governors' representatives of the Basin States.

4.8.3 The Delivery Certification shall indicate the amount of water ordered by CAWCD for the following Year and quantify how that order will be satisfied with diversions from the Colorado River and Long-term Storage Credits from the SNWA Interstate Account. The Delivery Certification shall state that Arizona's consumptive use of Colorado River water will be decreased in the following Year by a quantity sufficient to develop the requested ICUA.

4.9 Once AWBA certifies to the Secretary that ICUA will be developed during the Year of release, AWBA shall take all actions necessary in the following Year to ensure that ICUA is developed in accordance with such certifications.

4.10 In years in which the Secretary has determined a shortage under Article II(B)(3) of the Decree, AWBA's obligation to develop ICUA shall be limited as provided in the Agreement for Interstate Water Banking.

4.11 AWBA shall give notice to Entitlement Holders in Arizona, including Indian Tribes, that SNWA has requested the development of ICUA. The notice shall state which means permitted under this Article will be used to develop ICUA. Whether and what opportunities exist for Entitlement Holders in Arizona, including Indian Tribes, to develop ICUA will depend upon the means selected. The notice shall identify any opportunities for Entitlement Holders in Arizona, including Indian Tribes, to participate in the development of ICUA associated with the particular means selected. AWBA

shall provide this notice by first class mail to Entitlement Holders in Arizona, or by such other means as are acceptable to the Secretary.

4.12 By April 1 of the Year after ICUA is developed, AWBA shall submit to the Secretary a report documenting how ICUA was created and confirming that the amount of ICUA set forth in the Interstate Recovery Schedule was developed.

4.13 The Secretary shall, as he or she deems appropriate, review books and records in accordance with sub-article 6.6 to ensure that ICUA was developed and, in the event of a discrepancy shall require AWBA to repay to Lake Mead storage as set forth in sub-article 4.14.

4.14 If AWBA does not create ICUA as required under this Article, AWBA shall create ICUA in another Year to repay to Lake Mead storage the amount of ICUA consumptively used by SNWA but not created by AWBA. The Secretary, in addition to any other remedy available, may seek a court order requiring AWBA to do so. The Year of repayment shall be at the discretion of the Secretary, but shall not be more than three years after the year in which the shortfall occurred.

Article 5
Release of Intentionally Created Unused Apportionment

5.1 SNWA shall make a written request of the Secretary for the release of ICUA for consumptive use in the State of Nevada. A request for a release of ICUA shall be made by September 15 of the current Year, or an earlier date as reasonably required in writing by the Secretary, for a release of ICUA in the following Year. The request shall specify the quantity of ICUA to be released by the Secretary and shall certify that SNWA has mailed, first class postage paid, a copy of the request to the States of Nevada, Arizona, and California by providing copies to CRCN, the Arizona Department of Water Resources and the Colorado River Board of California. A copy of the request shall be provided to AWBA. To make a proper and timely request, SNWA must be in compliance with the terms of the Agreement for Interstate Water Banking and must have made a preliminary request to the AWBA to develop ICUA under sub-article 4.7.

5.2 The request for the development of ICUA by SNWA shall be incorporated into the Secretary's Annual Operating Plan for the Colorado River. The Annual Operating Plan shall state that, upon proper certification, the Secretary intends to release that quantity of ICUA to SNWA under Article II(B)(6) of the Decree in accordance with the terms of this Agreement.

5.3 Release of ICUA under this Agreement for diversion by SNWA shall operate under 43 CFR Part 414.3(f), Anticipatory Release of ICUA, as provided in this article. The

Secretary shall not release ICUA in excess of 100,000 acre-feet in any Year or in excess of the 1,250,000 acre-feet over the entire period of this Agreement. The amount of 1,250,000 acre-feet consists of the 1,200,000 acre-feet maximum credit accrual developed under the Agreement for Interstate Water Banking and the 50,000 acre-feet credit accrual developed pursuant to the demonstration underground storage project referenced in sub-article 3.3.2.

5.4 By December 20 of the current Year, following receipt of a proper and timely request for release of ICUA under sub-Article 5.1, the Secretary shall determine whether AWBA has elected a means for developing ICUA approved under Article 4 and whether all necessary actions required by 43 CFR Part 414 have been taken. For purposes of this Agreement, all necessary actions are those actions expressly enumerated in 43 CFR Part 414, as amplified by this Agreement.

5.4.1 The Secretary shall determine whether the certifications made by AWBA meet the requirements under sub-article 4.8. Upon so determining, the Secretary shall issue a notice of determination that shall release for diversion that quantity of ICUA so certified for consumptive use in the State of Nevada. The release of ICUA under this sub-article shall be effective as of January 1 of the following Year.

5.4.2 If the Secretary determines that the proper certifications have not been made under sub-article 4.8, or that all necessary actions under 43 CFR Part 414 have not been taken, the notice of determination shall (i) specify which certifications or necessary actions are deficient and the nature of the deficiency; (ii) specify the extent to which such deficiencies preclude the release of ICUA requested by SNWA for consumptive use in Nevada effective as of January 1 of the following Year; and (iii) determine whether any quantity of ICUA is available for release in the following year. If a quantity of ICUA is available for release under (iii), the notice shall release that quantity of ICUA to SNWA for consumptive use in the State of Nevada, effective on January 1 of the following year.

5.4.3 Any portion of ICUA not released in the notice of determination made by the Secretary under this sub-article shall be released for diversion by the Secretary on such date as the Secretary determines that the stated deficiencies have been cured.

5.5 The Secretary shall provide notice of the determination under sub-article 5.4 on or before December 20 of the current Year. If the Secretary fails to provide written notice of a determination required by sub-Article 5.4 by December 20, SNWA may seek judicial relief and shall be deemed to have exhausted any applicable administrative remedy and shall be free to seek any remedies available to it under applicable law.

5.6 ICUA shall be released to SNWA only in the Year and to the extent that ICUA is developed by AWBA, or for an anticipatory release, will be developed by AWBA as certified to the Secretary in accordance with Article 4.7, by reducing Colorado River water use within the State of Arizona.

5.7 Once the Secretary has determined that ICUA will be released to SNWA under sub-article 5.4, such ICUA shall not be available for release to any Entitlement Holder in the States of Arizona or California in that Year.

5.8 In any Year in which the Secretary has released ICUA to SNWA under this Article 5, AWBA shall cause the assignment of Long-term Storage Credits from the SNWA Interstate Account in accordance with the Interstate Recovery Schedule. By December 31 of that Year, AWBA shall ensure that all assignments from the SNWA Interstate Account have been made and properly debited by ADWR.

5.9 The amount of ICUA released for consumptive use in Nevada effective January 1 of any Year shall not be subject to reduction unless:

5.9.1 SNWA requests that AWBA cease development of ICUA under the terms of the Agreement for Interstate Water Banking; and

5.9.2 AWBA certifies to the Secretary that, pursuant to a SNWA request, a specific quantity of Long-term Storage Credits will not be recovered or exchanged for Colorado River water pursuant to an SNWA request.

5.10 ICUA that has been developed by the AWBA and released by the Secretary for diversion by SNWA in a particular Year but not diverted by SNWA for consumptive use in that Year may not be carried forward and diverted by SNWA in any succeeding Year.

5.11 The Secretary shall release ICUA developed by AWBA in accordance with the request of the SNWA, the terms of this Agreement, the determination of the Secretary under sub-article 5.4 of this Agreement, the Boulder Canyon Project Act, Article II(B)(6) of the Decree and all other applicable Federal laws and executive orders.

Article 6
General Provisions

6.1 Upon execution of this Agreement and annually thereafter, SNWA shall pay an annual administration fee of two thousand dollars ($2,000.00) to cover the United States' costs to perform the routine tasks necessary to administer this Agreement. The initial annual administration fee shall be pro-rated on the basis of one hundred sixty six dollars and sixty seven cents ($166.67) per month for the first year, payable upon

execution of this Agreement. Thereafter, the fee for each subsequent year shall be due on January 1.

6.2 The Secretary reserves the right at intervals of five (5) years, beginning five (5) years after the date of execution of this Agreement, to reexamine the annual administration fee and to revise the fee after three (3) months' advance written notice and after consultation with SNWA if the Secretary determines that a different charge is necessary to cover the United States' costs to perform the tasks described in this Agreement. Upon SNWA's written request, the Secretary shall provide SNWA with a detailed cost analysis supporting the adjustment to the annual administration fee.

6.3 The annual administration fee shall cover, but is not limited to, the costs for the following tasks routinely performed by the Secretary:

6.3.1 Determining when unused Nevada apportionment is available for release for consumptive use within Arizona pursuant to Article II(B)(6) of the Decree for purposes of storage pursuant to this Agreement and releasing that unused apportionment;

6.3.2 Reviewing records prepared by AWBA and SNWA pursuant to sub-article 3.4 and preparing and maintaining records to supplement the Article V Decree accounting report;

6.3.3 Reviewing AWBA's notices of opportunities for Colorado River water users in Arizona to participate in the development of ICUA;

6.3.4 Reviewing certifications from AWBA that ICUA has been or will be developed;

6.3.5 Determining that all necessary actions have been taken to implement 43 CFR 414; and

6.3.6 Reviewing SNWA's requests for release of ICUA and scheduling delivery of ICUA to SNWA.

6.4 The Secretary recognizes that the Decree must be enforced fairly with respect to all Entitlement Holders. Excess diversion by an Entitlement Holder that is not participating in a Storage and Interstate Release Agreement other than through the CAP facilities cannot be offset by reducing diversions to another Entitlement Holder for the sole reason that the latter Entitlement Holder is participating in a Storage and Interstate Release Agreement.

6.5 In the event any inconsistency is found between this Agreement and the Agreement for Interstate Water Banking, as initially executed and as it may be amended, regarding the rights and obligations as between AWBA and SNWA, the provisions of this Agreement shall control. No agreement to which the Secretary is not a party shall be construed as altering the rights and obligations as between the Secretary and the other parties to this Agreement.

6.6 The records of any party to this Agreement that relate to the storage and recovery of water, including the development and verification of Long-term Storage Credits, and the creation, release and use of ICUA shall be open to inspection by any other party. AWBA shall require that any Agreement for Development of Intentionally Created Unused Apportionment with CAWCD provide that the records of CAWCD relating to the development of ICUA shall be open to reasonable inspection by any party to this Agreement.

6.7 The provisions of this sub-article shall govern enforcement of this Agreement.

6.7.1 Time is of the essence in the performance of this Agreement.

6.7.2 The parties recognize and acknowledge that the availability of ICUA as provided in this Agreement is a critical alternative municipal water supply for SNWA while other longer-term sources of supply are being developed; that in planning to meet the needs of the area it serves, SNWA will rely on ICUA being available to it as provided in this Agreement; that accordingly the release of ICUA as provided in Article 5 is critical to the economy, health and safety of the area served by SNWA; that the release of ICUA as provided in this Agreement presents a unique opportunity for SNWA to obtain additional Colorado River water under the Decree; and that, for these reasons, among others, the water resources to be released as ICUA for use in Nevada are unique and not susceptible to replacement by SNWA.

6.8 The expenditure or advance of any money or the performance of any obligation of the United States under this Agreement shall be contingent on appropriation or allotment of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted. Absence of appropriation or allotment of funds shall not relieve AWBA, SNWA, or CRCN from any obligation under this Agreement.

6.9 No member of or Delegate to Congress, Resident Commissioner, or official of AWBA, SNWA, or CRCN shall benefit from this Agreement other than as a water user or landowner in the same manner as other water users or landowners.

6.10 The parties to this Agreement shall indemnify the United States, its employees, agents, subcontractors, successors, or assignees from loss or claims for damages and from

liability to persons or property, direct or indirect, and loss or claim of any nature whatsoever arising by reason of actions taken by non-Federal parties to this Agreement.

6.11 The parties to this Agreement are hereby notified of Arizona Revised Statues section 38-511.

6.12 The parties to this Agreement recognize and acknowledge that this Agreement is a contract executed pursuant to Federal Reclamation law, including the provisions of 43 U.S.C. § 390uu.

6.13 This Agreement shall not constitute approval by the Secretary of any other agreement or water delivery program.

6.14 Nothing in this Agreement affects the rights of any Colorado River Entitlement Holder.

6.15 No party to this Agreement shall be considered to be in default in the performance of any obligations under this Agreement when a failure of performance shall be due to uncontrollable forces. The term "uncontrollable force" shall mean any cause beyond the control of the party unable to perform such obligation, including but not limited to failure or threat of failure of facilities, flood, earthquake, storm, fire, lightning, and other natural catastrophes, epidemic, war, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by order of a court or regulatory agency of competent jurisdiction, and action or non-action by, or failure to obtain the necessary authorizations or approvals from, a Federal governmental agency or authority, which by exercise of due diligence and foresight such party could not reasonably have been expected to overcome. Nothing contained herein shall be construed to require any party to settle any strike or labor dispute in which it is involved.

6.16 Non-Federal parties to this Agreement may assign their interest in this Agreement, in whole or in part, to other authorized entities, subject to the approval of all other parties to this Agreement.

6.17 The Secretary does not warrant the quality of water released or delivered under this Agreement. The United States is not liable for damages of any kind resulting from water quality problems and the United States has no obligation to construct or furnish water treatment facilities to maintain or improve water quality except as may otherwise be provided in relevant Federal law.

Article 7
Notices

7.1 Notices and Requests

7.1.1 All notices and requests required or allowed under the terms of this Agreement shall be in writing and shall be mailed first class postage paid to the following entities at the following addresses:

AWBA:

Arizona Water Banking Authority
500 North Third Street
Phoenix, Arizona 85004
Attn: Manager

SNWA:

Southern Nevada Water Authority
1001 S. Valley View Boulevard
Las Vegas, Nevada 89153
Attn: General Manager

CRCN:

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101
Attn: Director

Secretary:

U.S. Department of the Interior
Bureau of Reclamation
Lower Colorado Regional Office
P.O. Box 61470
Boulder City, Nevada 89006
Attn: Regional Director

The State of Arizona:

Arizona Department of Water Resources
500 North 3rd Street
Phoenix, Arizona 85004
Attn: Director

The State of California:

Colorado River Board of California
770 Fairmont Avenue, Suite 100
Glendale, California 91203-1035
Attn: Executive Director

The State of Nevada:

Colorado River Commission of Nevada
555 E. Washington Avenue, Suite 3100
Las Vegas, Nevada 89101
Attn: Director

7.1.2 Any party may, at any time, change its mailing address by notice to the other parties.

7.2 Notices and Requests by Facsimile

7.2.1 Notices and requests may be given by facsimile among AWBA, SNWA, CRCN and the Secretary in lieu of first class mail as provided in sub-article 7.1. Such facsimiles shall be deemed complete upon a receipt from sender's facsimile machine indicating that the transmission was satisfactorily completed and after phone communication with administrative offices of the recipient notifying the recipient that a facsimile has been sent.

AWBA Facsimile Number	602-417-2401
SNWA Facsimile Number	702-258-3951
CRCN Facsimile Number	702-486-2695
Secretary Facsimile Number	702-293-8042

7.2.2 Any party may, at any time, change its facsimile number by notice to the other parties.

In Witness of this Agreement, the Parties affix their official signatures below, acknowledging execution of this document on the 18th day of December, 2002.

Legal Review and Approval:

By: Katherine Ott Verburg
Field Solicitor
Phoenix, Arizona

THE UNITED STATES OF AMERICA

By: Robert D. Johnson
Regional Director
Lower Colorado Region
Bureau of Reclamation

STATE OF NEVADA, acting through its COLORADO RIVER COMMISSION

Attest:

By: [signature]
Executive Director

By: [signature]
Chair

Approved as to form:

By: [signature]

Title: Sr Deputy AG.

THE SOUTHERN NEVADA WATER AUTHORITY

Attest:

By: [signature]
General Manager

By: Amanda Cyphers
Chair

Approved as to form:

By: [signature]

Title: Deputy Counsel

ARIZONA WATER BANKING AUTHORITY

Attest:

By: William L. Chase

Title: Secretary

By: [signature]
Chair