



August 14, 2012

RE: Inter Tribal Council of Arizona, Inc. - Comments on the Water Resources Development Commission July 31, 2012, Draft of the WRDC Supplemental Report

The Inter Tribal Council of Arizona, Inc. has reviewed the Arizona Water resource Development Commission's Supplemental Report and is forwarding the comments to the WRDC July 31, 2012 Draft of the Supplemental Report.

During discussions regarding Regional Water Augmentation Authority formation, a working group was tasked with deliberating issues raised by Tribal entities. The attached comments from ITCA address these issues.

Sincerely

John R. Lewis,
Executive Director
Inter Tribal Council of Arizona, Inc.

Attachment

Ak-Chin Indian Community
Cocopah Tribe
Colorado River Indian Tribes
Fort McDowell Yavapai Nation
Fort Mojave Tribe
Gila River Indian Community
Havasupai Tribe
Hopi Tribe
Hualapai Tribe
Kaibab-Paiute Tribe
Pascua Yaqui Tribe
Pueblo of Zuni
Quechan Tribe
Salt River Pima-Maricopa Indian Community
San Carlos Apache Tribe
Tohono O'odham Nation
Tonto Apache Tribe
White Mountain Apache Tribe
Yavapai-Apache Nation
Yavapai-Prescott Indian Tribe

ITCA Comments on July 31, 2012 Draft of WRDC Supplemental Report

ITCA urges the insertion in the report of a statement to the effect that nothing in the recommendations is intended to alter existing state and federal law governing rights to surface water or groundwater. Throughout the discussion of the Commission's recommendations for legislative changes it has been agreed by all that the WRDC is not proposing any changes to existing water rights with respect to any party holding such rights, tribal or non-tribal. It is essential that this general consensus be made explicit in the supplemental report.

The draft should either include a clear statement to this effect or revise the language on page 3 in July 31, 2012, draft in item 3 under the subheading "RWAA Principle: Authority Powers and Duties" to read: "Acquire, hold and sell water rights as permitted by state and federal law."

ITCA urges the following changes in the text at the top of page 2 with respect to the discussion of tribal issues. The rationale for each requested change is noted in italics.

- Revise the text of the last sentence in the first paragraph on page 2 to read as follows: "The following language was developed by this working group, consisting of representatives of tribal and non-tribal interests:"

Comment: It should be noted that the language referred to was adopted by general consensus of those participating in the working group, both tribal and non-tribal representatives.

- Revise the list of bulleted items below the first paragraph on page 2 to read as follows:
 - The authority shall respect the sovereignty of all Tribal governments.
 - Upon the request of an Arizona Tribe, the authority shall promptly meet and confer with the Tribe to:
 - Discuss potential opportunities to partner with the Tribe under such terms as may be mutually agreeable to the Tribe and the authority.
 - Seek to resolve in advance Tribal concerns about the authority's planned actions or projects, including but not limited to, potential impacts on Tribal water rights and resources, Tribal

sacred sites, traditional cultural properties and Tribally sensitive species.

- Concurrently with the notice to the Board of Supervisors of the authority's formation, the authority shall provide notice of the authority's formation to the office of the Chairperson of each Arizona Indian Tribe with a copy of the organization documents that describe the authority, its membership, the water supply issues to be addressed by the authority, and the proposed locations of uses of water supplied by the authority.

Comment: These changes are taken directly from the text of the document developed by the "Small Group" at its meeting on July 9th. They reflect the agreement of the "Small Group" more accurately than any paraphrasing of that language.

- Retain as the last bullet under the first paragraph on page 2 what is currently the 2nd bullet, beginning with the words "Any aggrieved Arizona Tribe may contest . . . "

Comment: This is simply a repositioning of this bullet, not a change in the text.

- Add as an additional bullet the notice provisions involving all interested parties, including tribes, contained in the July 9th recommendations of the "Small Group" as follows:
 - Maintain a list of interested persons and any Arizona Tribes who have requested to receive notices from the authority, and provide written notice of the following (via mail or email) to the person or persons, including the person or persons designated by any Arizona Tribe:
 - Any public meetings to be held by the authority.
 - The completion and availability of written studies on the water supply projects to be developed by the authority conducted by or on behalf of the authority.
 - The submission of any final application for a permit or approval to be issued by any state or federal agency or department that requires public notice by the state or federal agency or department.

Comment: These notice provisions were agreed to by the "Small Group" and are intended to insure transparency in the activities of an authority, transparency that benefits all interested parties, including Tribes.