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EXHIBITS

2.1 YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994
2.15 WATER SERVICE AGREEMENT BETWEEN YAVAPAI-PRESCOTT INDIAN TRIBE AND CITY OF PRESCOTT
3.0 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PRESCOTT AND CHINO VALLEY IRRIGATION DISTRICT
7.1 MEMORANDUM OF UNDERSTANDING BETWEEN THE YAVAPAI-PRESCOTT INDIAN TRIBE AND THE STATE OF ARIZONA
9.1 WAIVER AND RELEASE
9.5 STIPULATION AND FORM OF JUDGMENT
AGREEMENT

THIS AGREEMENT, dated as of ________________, 1995, is entered into by and between the United States of America, the State of Arizona, the Yavapai-Prescott Indian Tribe, the City of Prescott and the Chino Valley Irrigation District.

1.0 RECITALS

1.1 The representatives of the United States of America, the State of Arizona, the Yavapai-Prescott Indian Tribe, the City of Prescott and the Chino Valley Irrigation District have agreed to permanently settle the water rights of the Yavapai-Prescott Indian Tribe and its members, to finally resolve certain pending litigation on water rights.

1.2 Section 2(a)(1) of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994, Pub. L. 103-434, 108 Stat. 4526 (1994), states that it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

1.3 The objective of this settlement is to resolve certain outstanding water-related litigation and to settle, once and for always, the water rights of the Yavapai-Prescott Indian Tribe and its members based upon Federal, State and other laws by confirming to the Yavapai-Prescott Indian Tribe sufficient water from various sources to develop lands within the Yavapai-Prescott Indian Tribe's Reservation.
NOW, THEREFORE, in consideration of the premises and of the promises and agreements hereinafter set forth, the parties hereto agree as follows:

2.0 **DEFINITIONS**

This Agreement will employ abbreviated terms which will have the meanings stated below.


2.2 "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

2.3 "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

2.4 "Divert" means to remove surface water from its natural course or location by means of a ditch, canal, flume, bypass, pipeline, conduit, well, pump or other act of man, either (1) downstream of the gauging station as more particularly identified in Section 11(d) of the Act; or (2) upstream of the gauging station, so long as the Tribe provides, at its own expense, other reasonable means of measuring the rate and quantity of water it diverts. "Diversion" means the act of diverting.

2.5 "Effluent" means water which, after being diverted as surface water or withdrawn as groundwater, has been used for domestic, municipal or industrial purposes and which is available for reuse for
any purpose, whether or not the water has been treated to improve its
group.

2.6 "Fund" means the Verde River Basin Water Fund, a federal
fund to be created pursuant to section 6(a) of the Act

2.7 "Gila River Adjudication" means that action pending in the
Superior Court of the State of Arizona in and for the County of
Maricopa styled as In Re the General Adjudication of All Rights to Use
Water in the Gila River System and Source, W-1 (Salt), W-2 (Verde),
W-3 (Upper Gila) and W-4 (San Pedro), including subsequent enforcement
proceedings therein.

2.8 "Groundwater" means subsurface water which is not defined
as surface water or effluent pursuant to Subparagraphs 2.13 and 2.5
hereof.

2.9 "Parties" means the entities represented by the signatories
to this Agreement.

2.10 "Prescott" means the City of Prescott, an Arizona municipal
corporation.

2.11 "Prescott Active Management Area" means the Active
Management Area, established pursuant to Arizona law and encompassing
the little Chino and upper Agua Fria sub-basins, wherein the
groundwater management goal is to achieve and thereafter maintain a
long-term balance between annual groundwater withdrawals and annual
natural and artificial groundwater recharge by the year 2025 or such
earlier date as may be determined by the director of the Arizona
Department of Water Resources.

2.13 "Secretary" means the Secretary of the United States Department of the Interior or his duly authorized representative.

2.14 "Surface Water" means all water on or beneath the surface of the earth which is appropriable under applicable law.

2.15 "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

2.16 "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the City of Prescott dated __________, 1995. The Water Service Agreement is attached as Exhibit 2.15 to this Agreement.

2.17 "Withdraw" means to remove groundwater from its natural location by means of a well, pump, pipeline, ditch, conduit or other act of man. "Withdrawal" means the act of withdrawing.

3.0 EXHIBITS

This Agreement includes as exhibits additional and subsidiary documents and agreements in the form of legislation, contracts, stipulations for settlement of litigation, and waivers of claims, which are attached and incorporated herein as follows:

A. The Act, a copy of which is attached hereto as Exhibit 2.1 and incorporated herein by this reference.

B. The Water Service Agreement, a copy of which is attached hereto as Exhibit 2.15 and incorporated herein by reference in Subparagraph 5.1.
C. A Memorandum of Understanding between the Yavapai-Prescott Indian Tribe and the State of Arizona, a copy of which is attached hereto as Exhibit 7.1 and incorporated herein by this reference.

D. A Waiver and Release of Claims, a copy of which is attached hereto as Exhibit 9.1 and incorporated herein by this reference.

E. A Stipulation and Form of Judgment, a copy of which is attached hereto as Exhibit 9.5 and incorporated herein by this reference.

F. An Intergovernmental Agreement between the City of Prescott and Chino Valley Irrigation District (adopted May 30, 1995), a copy of which is attached hereto as Exhibit 3.0 and incorporated herein by this reference.

4.0 WATER ENTITLEMENT

Water for the settlement will be provided to the Tribe from the sources and in the quantities outlined and defined in this Paragraph 4.0 and Paragraphs 5.0 and 6.0 hereof.

4.1 In addition to water supplies provided to the Tribe pursuant to Subparagraphs 4.2, 4.3 and 4.4 hereof, Reservation water users shall be provided with water service from Prescott pursuant to the Water Service Agreement, as further described in Paragraph 5.0 hereof and the Water Service Agreement. The Water Service Agreement provides for water service to Reservation users as Prescott customers, with priority access to five hundred and fifty (550) acre-feet per annum, hereinafter "AFA", during times of severe shortage.
4.2 In addition to water supplies provided to the Tribe pursuant to Subparagraphs 4.1, 4.3 and 4.4 hereof, the Tribe shall have the right to beneficially use on the Reservation, and to store and divert on or off the Reservation, up to one thousand (1,000) AFA, of the right to Granite Creek surface water established by CVID pursuant to Arizona law and to be confirmed in the Gila River Adjudication, or to permit the diversion, treatment and delivery by Prescott of a portion of this water to facilitate deliveries of absolute priority water by Prescott pursuant to Subparagraph 5.1 of the Water Service Agreement, as further described in paragraph 6.0 hereof. The priority of the Tribe’s right to such Granite Creek water shall be the priority for that water as determined by the confirmation of CVID’s right to Granite Creek water in the Gila River Adjudication.

4.3 In addition to water supplies provided to the Tribe pursuant to Subparagraphs 4.1, 4.2 and 4.4 hereof, the Tribe shall have the right to withdraw groundwater beneath the Reservation for on-Reservation beneficial use in accordance with any groundwater management plan which may be developed by the Tribe pursuant to Section 11(c) of the Act and Paragraph 7.0 hereof. The parties to this Agreement, except as provided in Section 13(a) and 13(b) of the Act, recognize, ratify, confirm and declare to be valid the Tribe’s right and entitlement to the on-Reservation beneficial use of all groundwater beneath the Reservation, in accordance with any groundwater management plan developed by the Tribe pursuant to Section 11(c) of the Act and Paragraph 7.0 hereof, and agree to not object to, dispute or challenge, in the Gila River Adjudication or in any other
4.4 In addition to water supplies provided to the Tribe pursuant to Subparagraphs 4.1, 4.2 and 4.3 hereof, effluent generated on the Reservation may either be used on the Reservation or sold to off-Reservation users, in accordance with the Water Service Agreement. The parties to this Agreement, except as provided in Sections 13(a) and 13(b) of the Act, recognize, ratify, confirm and declare to be valid the Tribe’s right and entitlement to use and/or sell to third parties all effluent generated by Reservation water users, in accordance with the Water Service Agreement, and agree to not object to, dispute or challenge, in the Gila River Adjudication or in any other judicial or administrative proceeding, this right and entitlement. All use of Effluent off the Reservation shall be in accordance with applicable state and federal law.

5.0 WATER SERVICE AGREEMENT

5.1 The Water Service Agreement between the Tribe and Prescott, attached as Exhibit 2.15 hereof, is hereby incorporated into and made a part hereof.

5.2 The parties to this Agreement, except as provided in Sections 13(a) and 13(b) of the Act, recognize, ratify, confirm and declare to be valid Prescott’s rights and entitlements to water from the Verde and Gila River watersheds and agree to not object to, dispute or challenge, in the Gila River Adjudication or in any other judicial or administrative proceeding, such rights and entitlements, which rights and entitlements are evidenced by, described, stated, claimed, confirmed or established in the following documents and
instruments:


g. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-40301.

h. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-40302.

i. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-41650.

j. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-43928.

k. Water Right Registration Act Statement of Claim of
1. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-43930.

2. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-43931.

3. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-43932.


5. Right to Withdraw Groundwater, Service Area Right No. 56-003017.0000.


5.3 The parties to this Agreement, except as provided in Sections 13(a) and 13(b) of the Act, recognize, ratify, confirm and declare to be valid the Tribe’s rights and entitlements under the Water Service Agreement and agree to not object to, dispute or challenge, in the Gila River Adjudication or in any other judicial or administrative proceeding, such rights and entitlements.

5.4 The parties to this Agreement, except as provided in Sections 13(a) and 13(b) of the Act, further recognize, ratify, confirm and declare to be valid the Tribe’s conditional right and entitlement, under the Water Service Agreement, to elect to assume Reservation water service in the circumstances listed in Subparagraph
8.5 of the Water Service Agreement and agree, in the event of such an assumption, to not object to, dispute or challenge, in the Gila River Adjudication or in any other judicial or administrative proceeding, the Tribe's right and entitlement to utilize the specified Type 2 Grandfathered Groundwater Rights or the equivalent thereof to withdraw groundwater in the Prescott Active Management Area for delivery to and use on the Reservation in accordance with the State of Arizona's Groundwater Code.

6.0 GRANITE CREEK WATER

6.1 The parties to this Agreement, except as provided in Sections 13(a) and 13(b) of the Act, recognize, ratify, confirm and declare to be valid CVID's rights and entitlements to water from the Verde River watershed and agree to not object to, dispute or challenge, in the Gila River Adjudication or in any other judicial or administrative proceeding, such rights and entitlements, which rights and entitlements are evidenced by, described, stated, claimed, confirmed or established in the following documents and instruments:


e. Statement of Claimant Form for Domestic Use No. 39-05-46143, In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, Nos. W-1 through W-4 (Maricopa County Super. Ct.).

f. Statement of Claimant Form for Irrigation and Other Uses No. 39-05-46144, In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, Nos. W-1 through W-4 (Maricopa County Super. Ct.).

g. Statement of Claimant Form for Irrigation Use No. 39-05-46145, In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, Nos. W-1 through W-4 (Maricopa County Super. Ct.).

h. Certificate of Water Right No. 1673.

i. Certificate of Water Right No. 1674.

j. Certificate of Water Right No. 593.


l. Water Right Registration Act Statement of Claim of Right to Use Public Waters of the State No. 36-40234.

m. Permit to Appropriate No. 33-86560, to the extent the exercise of such right is not adverse to the rights of Prescott pursuant to Arizona Public Service Co. v. Long, 160 Ariz. 429, 773 P.2d 988 (1989), or the Tribe pursuant to the Water Service Agreement and Subparagraph 4.4 of this Agreement.

n. Certificate of Irrigation Grandfathered Right No. 57-003001.0000.
6.2 Of such right or entitlement to Granite Creek surface water
described in Subparagraph 6.1 hereof as is confirmed in the Gila River
Adjudication, the Tribe shall be entitled each year to store, divert
and use: (a) as its Minimum Annual Entitlement, fifty (50) percent of
the flow, as measured at the State Highway 89 bridge across Granite
Creek adjacent to the Reservation, until it has diverted five hundred
and fifty (550) AFA; provided, however, that if the existing and
customary beneficial uses of surface water by CVID pursuant to the
rights described in Subparagraph 6.1 hereof are reduced to an annual
entitlement of less than one thousand one hundred (1,100) AFA by a
determination of the Court in the Gila River Adjudication which is not
subject to further appeal, then the Tribe's Minimum Annual Entitlement
shall be reduced by an amount equal to one-half the difference between
one thousand one hundred (1,100) AFA and CVID's reduced entitlement;
and (b) as its Maximum Annual Entitlement, an additional ten (10)
percent of that portion of the flow of Granite Creek which exceeds
1,100 AFA, as measured at the State Highway 89 bridge across Granite
Creek adjacent to the Reservation, up to a total combined diversion
of one thousand (1,000) AFA; provided, however, that if existing and
customary beneficial uses of surface water by CVID pursuant to the
rights described in Subparagraph 6.1 hereof are reduced by virtue of
a determination by the Court in the Gila River Adjudication which is
not subject to further appeal that one or more of such rights is or
are invalid, the Tribe's total Maximum Annual Entitlement pursuant to
this Subparagraph shall be reduced by the same percentage as the
percentage reduction in CVID's use rights. The priority of storage,
diversion and use of surface water by the Tribe pursuant to this Subparagraph 6.2 shall be as determined by the confirmation of CVID's right to Granite Creek water in the Gila River Adjudication. Any surface water not stored, diverted or used by the Tribe in a year shall be available for use by CVID, and the Tribe's annual entitlement under this Subparagraph 6.2 shall not be carried over from year to year; provided, however, that: (i) any water stored by the Tribe during a given year may be left in storage and/or consumptively used by the Tribe in subsequent years without such storage and/or use being counted against the Tribe's annual entitlements for such subsequent years; (ii) if the flow of Granite Creek is insufficient in any year to permit the Tribe to divert five hundred and fifty (550) AFA pursuant to this Subparagraph 6.2, then an amount equal to the difference between the amount the Tribe actually diverts in that year and its five hundred and fifty (550) AFA Minimum Annual Entitlement shall be carried forward from year to year (but not to exceed four years) as a Deficiency until the Tribe is able to recover such Deficiency pursuant to this Subparagraph 6.2; and (iii) the Tribe's total Maximum Annual Entitlement pursuant to clause (b) of the first sentence of this Subparagraph 6.2 shall be increased in any given year by an amount equal to the sum of the Deficiencies carried forward from the preceding four years. If the Tribe is permitted to divert, and does divert, an amount in excess of one thousand (1,000) AFA pursuant to this Subparagraph 6.2, then the Tribe's accumulated Deficiencies shall be reduced by an amount equal to such excess. All such excess diversions shall be applied to the earliest deficiency still being
carried forward. Deficiencies older than four years shall lapse.

6.3 During such times as the Tribe receives water from Prescott to which it has an absolute prior right (herein referred to as "absolute priority water"), as more fully described in Subparagraph 5.1 of the Water Service Agreement, Prescott may elect, after receiving the Tribe's permission, to divert from Granite Creek a quantity of water equivalent to the absolute priority water delivered to the Reservation. Any such diversion by Prescott shall be in lieu of diversion by the Tribe of a corresponding portion of the Tribe's Granite Creek right as described in Subparagraph 6.2 hereof, and shall be subject to the same restrictions applicable to diversions by the Tribe under Subparagraph 6.2 hereof.

6.4 CVID's obligations pursuant to this Paragraph 6.0 shall be binding upon its successors and assigns. The parties to this Agreement agree that, notwithstanding a change of circumstances such as the termination of CVID's corporate existence, the Tribe's entitlement pursuant to this Paragraph 6.0 shall remain in full force and effect.

6.5 The parties to this Agreement, except as provided in Sections 13(a) and 13(b) of the Act, recognize, ratify, confirm and declare to be valid the Tribe's right and entitlement to store, divert and beneficially use CVID surface water pursuant to this Paragraph 6.0 and agree to not object to, dispute or challenge, in the Gila River Adjudication or in any other judicial or administrative proceeding, this right and entitlement.
7.0 REGULATION OF TRIBAL WATER RESOURCES

7.1 As provided in Section 11(c) of the Act, the Tribe shall establish a groundwater management plan for the Reservation which, except to be consistent with the Water Service Agreement, this Agreement and the Act, will be compatible with the groundwater management plan in effect for the Prescott Active Management Area and will include an annual information exchange with the Arizona Department of Water Resources. In establishing a groundwater management plan pursuant to this Paragraph, the Tribe will enter into a Memorandum of Understanding with the Arizona Department of Water Resources for consultation. The Memorandum of Understanding will be in the form set out in Exhibit 7.1 to this Agreement.

7.2 Notwithstanding other law, the Tribe may establish a Tribal water code, consistent with the above-described groundwater management plan, under which the Tribe will manage, regulate, and control the water resources granted it in the Act, this Agreement, and the Water Service Agreement; provided, however, that such management, regulation and control shall not authorize any action inconsistent with the trust ownership of the Tribe's water resources.

8.0 ACQUISITION OF CAP CONTRACTS AND ESTABLISHMENT OF TRUST ACCOUNTS

8.1 In accordance with Section 6(d) of the Act, the Tribe hereby agrees to establish a trust account into which revenues from the Fund will be deposited. Revenues deposited into the Fund to the credit of the Tribe will be derived from the sale of the Tribe's CAP contract entitlement in accordance with Section 5 of the Act.
A. The Tribe hereby agrees that revenues from the trust account may only be used to defray the Tribe's water service costs under the Water Service Agreement or to develop and maintain facilities for water or Effluent use on the Reservation. Any funds withdrawn from the trust account but not used for the purposes stated herein shall be returned to the Fund, with interest at the Federal Reserve Discount Rate (the interest rate charged on loans to depository institutions by the Federal Reserve Banks) in effect from time to time.

B. The Tribe agrees to permit complete and thorough audits of the trust account and all expenditures therefrom and deposits thereto on an annual basis. Such audits may be conducted by the Area Director, Phoenix Area Office, Bureau of Indian Affairs or its designees.

8.2 In accordance with Section 6(d) of the Act, Prescott hereby agrees to establish a trust account into which revenues from the Verde River Basin Water Fund will be deposited. Revenues deposited to the Fund to the credit of Prescott will be derived from the sale of Prescott's CAP contract entitlement in accordance with Section 5 of the Act.

A. Prescott hereby agrees that revenues from the trust account may only be used to defray expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under the Act. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated
water rights, development of ground water resources outside the
Prescott Active Management Area established pursuant to the laws of
the State of Arizona and artificial recharge; except that none of the
moneys paid to Prescott may be used for construction or renovation of
the city's existing waterworks or water delivery system. Any funds
withdrawn from the trust account but not used for the purposes stated
herein shall be returned to the Fund, with interest at a rate equal
to the average rate of interest paid on governmental deposits by the
Arizona State Treasurer's Pool during the period of time that the
monies were erroneously expended from the trust account.

B. Prescott also agrees that it will comply with all
applicable federal environmental and state environmental and water
laws in developing alternative water sources. Development of such
alternative water sources shall not be inconsistent with the goals of
the Prescott Active Management Area, preservation of the riparian
habitat, flows and biota of the Verde River and its tributaries.

C. Prescott agrees to permit complete and thorough audits
of the trust account and all expenditures therefrom and deposits
thereeto on an annual basis. Such audits may be conducted by the
Regional Director, Lower Colorado River Region, Bureau of Reclamation,
or its designees.

9.0 WAIVER OF CLAIMS

9.1 Except as provided in Subparagraph 9.2 hereof, the Tribe,
on behalf of itself and its members, and the United States shall
execute a waiver and release of:
A. Any and all past and present claims of water rights or injuries to water rights (including water rights in groundwater, surface water and effluent) for lands within the Reservation, from time immemorial to the date of execution of such waiver and release, which the Tribe and/or its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation or municipal corporation, arising under the laws of the United States or the State of Arizona.

B. Any and all future claims of rights to water (including water rights in groundwater, surface water and effluent) for lands within the Reservation, from and after the date of execution of such waiver and release, which the Tribe and/or its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation or municipal corporation, arising under the laws of the United States or the State of Arizona.

C. Any and all past, present and future claims of water rights or injuries to water rights (including water rights in groundwater, surface water and effluent) for lands outside of the exterior boundaries of the Reservation for claims based upon aboriginal occupancy, which the Tribe and/or its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation or municipal corporation, arising under the laws of the United States or the State of Arizona. The waiver and release will be in the form set out in Exhibit 9.1 to this Agreement.
9.2 Notwithstanding the execution by the Tribe of the waiver and release described in Subparagraph 9.1 hereof, the Tribe, its members, and the United States for their benefit, shall retain the right to assert the following claims:

A. Claims for protection and/or enforcement of the Tribe's surface water, groundwater and effluent rights and entitlements as provided for in this Agreement under the continuing jurisdiction of the Court in the Gila River Adjudication or otherwise.

B. Claims for the breach or enforcement of the terms of this Agreement or rights or entitlements recognized herein, or for the breach or enforcement of the Water Service Agreement or rights or entitlements recognized therein, including claims for future injuries to such rights and entitlements.

C. Claims for past, present and/or future injuries to Tribal natural resources and property, including but not limited to surface water and groundwater and rights thereto, resulting from, caused by or related to pollution or contamination of any kind.

D. Claims for water rights and/or injuries to water rights asserted in the circumstances described in Subparagraphs 10.3, 10.4 and 10.5 hereof.

9.3 Any entitlement to water of any individual member of the Tribe for lands within the Reservation shall be satisfied out of the water resources provided to the Tribe in this Agreement.

9.4 Except as provided in Paragraph 9.2 hereof, the United States shall not assert any claim against the State of Arizona and any agency or political subdivision thereof or any other person,
corporation, or municipal corporation, in its own right or for the
benefit of the Tribe and its members based upon (1) water rights or
injuries to water rights of the Tribe and its members; or (2) water
rights or injuries to water rights held by the United States for the
benefit of the Tribe and its members.

9.5 The parties shall file a stipulation and form of judgment
in the Gila River Adjudication in the form of Exhibit 9.5 hereto. The
United States or the Tribe shall be permitted to support any claim of
any party to this Agreement filed in the Gila River Adjudication from
which the Tribe's water rights under this Agreement are derived.

9.6 In the event any party to this Agreement files a lawsuit in
a United States district court relating only and directly to the
interpretation or enforcement of this Agreement or the Act, naming the
United States of America or the Tribe as parties, the sovereign
immunity of the United States and the Tribe from such suit is waived
by Section 11(a) of the Act. In the event Prescott submits a dispute
under the Water Service Agreement to arbitration or seeks review by
the United States District Court for the District of Arizona of an
arbitration award under the Water Service Agreement, any claim by the
Tribe to sovereign immunity from such arbitration or review is waived
by Section 11(a) of the Act.

9.7 Nothing herein shall affect the water rights or claims
related to any trust allotment located outside the exterior boundaries
of the Reservation of any member of the Tribe; provided, however, that
any water rights determined to exist for such allotments shall not be
exercised for use on the Reservation.
9.8 Nothing herein shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

9.9 Nothing herein shall prevent the Tribe from participating with other entities in further activities to augment the water supply available to the Prescott Active Management Area and the Granite Creek watershed. In addition to the water provided to the Tribe under this Agreement and the Water Service Agreement, the Tribe may, consistent with state and federal law, acquire rights to water pursuant to state law or by contract with the United States; provided, however, that no rights so acquired shall be based upon claims waived pursuant to this Paragraph 9.0 and Section 10 of the Act, nor shall the acquisition of any such rights vitiate the Waiver and Release of Claims executed by the Tribe and the United States pursuant to this Paragraph 9.0 and Section 10 of the Act.

10.0 ENFORCEABILITY DATE AND RELATED MATTERS

10.1 This Agreement shall be effective and binding when it has been executed by all parties hereto and when the parties to this Agreement have executed all exhibits to the Agreement which call for their signatures. Other than to take all steps described in this Subparagraph 10.1 to occur, no party to this Agreement shall be required to perform any of the obligations, or be entitled to receive any of the benefits, under the Agreement or under any of the Exhibits hereto until such time as the waivers authorized in Section 10(b) of the Act have become effective pursuant to Section 12(a) of the Act, which date is referred to herein as the "Enforceability Date". In the event the waivers authorized in Section 10(b) of the Act have not
become effective by December 31, 1995, this Agreement shall be of no further force or effect.

10.2 Exhibit 2.1 hereto is the Act, which authorizes the federal action required to carry out this Agreement. Any act of Congress which materially amends the Act set forth in Exhibit 2.1 hereto, as it affects this Agreement, prior to the Enforceability Date of this Agreement, without the written consent of the parties adversely affected by such amendment, shall relieve all parties to this Agreement of their obligations hereunder.

10.3 In the event the waivers authorized in Section 10(b) of the Act have become effective and a party to the Gila River Adjudication has obtained the reversal of the judgment of the Maricopa County Superior Court approving Exhibit 9.5 hereto and no further appeal may be taken, the parties to this Agreement shall:

A. Perform all of their respective obligations under this Agreement, unless otherwise ordered by a court of competent jurisdiction; and

B. Permit the Tribe and its members, and the United States for their benefit, to assert in the Gila River Adjudication claims for water rights and entitlements in excess of the Tribe’s rights and entitlements under this Agreement and the Water Service Agreement, and the other parties to this Agreement agree not to assert any defense against the Tribe and the United States; however, the Tribe and the United States agree that a reserved right awarded to the Tribe will be satisfied as provided in this Agreement and the Water Service Agreement, and that if a right in excess of the Tribe’s rights and
entitlements under this Agreement and the Water Service Agreement is awarded, the excess of such right will not be exercised, in any phase of the Gila River Adjudication or any subsequent proceedings, against junior rights held by other parties to this Agreement.

10.4 In the event the waivers authorized in Section 10(b) of the Act have become effective and a court of competent jurisdiction has permanently ordered any single party to this Agreement not to perform an obligation to deliver water to the Tribe as provided in this Agreement and no further appeal may be taken,

A. All other parties to this Agreement shall perform all of their respective obligations under this Agreement, unless otherwise ordered by a court of competent jurisdiction;

B. The party ordered not to perform an obligation to deliver water to the Tribe as provided in this Agreement shall perform all of its remaining obligations, if any, under this Agreement; that party shall be relieved of its obligations under this Agreement only to the extent necessary to comply with the court's order; and

C. The Tribe and its members, and the United States for their benefit, may assert in the Gila River Adjudication claims for water rights and entitlements in excess of the Tribe's rights and entitlements under this Agreement and the Water Service Agreement, and the other parties to this Agreement agree not to assert any defense against the Tribe and the United States; however, the Tribe and the United States agree that a reserved right awarded to the Tribe will be satisfied as provided in this Agreement and the Water Service Agreement, to the extent not precluded by an order of a court of
competent jurisdiction as provided in this Subparagraph 10.4, and that if a right in excess of the Tribe's rights and entitlements under this Agreement and the Water Service Agreement is awarded, the excess of such right will not be exercised, in any phase of the Gila River Adjudication or any subsequent proceedings, against junior rights held by other parties to this Agreement.

10.5 In the event the waivers authorized in Section 10(b) of the Act have become effective and a court of competent jurisdiction has permanently ordered more than one of the parties to this Agreement not to perform an obligation to deliver water to the Tribe as provided in this Agreement and no further appeal may be taken, then, unless otherwise agreed by the Tribe, this Agreement shall be null and void and, except as provided in Subparagraph 9.6 hereof and in this Subparagraph 10.5, all parties shall be relieved of their obligations under this Agreement.

11.0 STATE OF ARIZONA CONTRIBUTION

11.1 Pursuant to Paragraph 8.0, Section 6(d) of the Act and by contract with the Secretary, the Tribe shall establish a trust account into which funds appropriated pursuant to the Act and this Agreement shall be deposited for use by the Tribe consistent with Section 7(b) of the Act.

11.2 Upon establishment of the trust account pursuant to Subparagraph 11.1 hereof, the Tribe shall so notify the State of Arizona. Within one calendar year of such notice, but not later than December 31, 1995, the State of Arizona, subject to appropriation by the Legislature, shall deposit or cause to be deposited $200,000.00
into the trust account established pursuant to Subparagraph 11.1 hereof.

11.3 In the event the waivers authorized in Section 10(b) of the Act have not become effective by December 31, 1995, the Tribe shall return to the State of Arizona any funds appropriated and deposited by the State of Arizona into the Tribe’s trust account pursuant to Subparagraph 11.2 hereof.

12.0 OTHER PROVISIONS

12.1 Cooperation with Tribal Water Development. The State of Arizona, Prescott and CVID will cooperate with the Tribe in obtaining any necessary Federal approval required for the Tribe’s enjoyment of the rights and entitlements provided by this Agreement and the Water Service Agreement, including their good offices to assist in obtaining the cooperation of others necessary for such approvals. The United States, Prescott and CVID will cooperate with the Tribe in obtaining any necessary State approval required for the Tribe’s enjoyment of the rights and entitlements provided by this Agreement and the Water Service Agreement, including their good offices to assist in obtaining the cooperation of others necessary for such approvals.

12.2 Cancellation by State, Prescott and CVID. The state, Prescott or CVID may cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the state, Prescott or CVID is an employee or becomes a consultant to any other party to this Agreement with respect to the subject matter of this Agreement while this Agreement
or any extension of this Agreement is in effect. Cancellation shall be effective when written notice from the Governor or the governing bodies of Prescott or CVID is received by all parties to this Agreement unless the notice specifies a later time. To the extent A.R.S. § 38-511 is applicable to this Agreement, Prescott hereby represents that the persons significantly involved in the initiating, negotiating, securing, drafting and creating of this Agreement on behalf of Prescott are John R. Moffitt, City Attorney, and Brad Huza, Environmental Services Director, and the other parties hereto each hereby represents that neither Mr. Moffitt nor Mr. Huza is or has been an employee or agent of or consultant to that party during any time material to the creation of this Agreement. Each party hereto, other than Prescott, also hereby covenants to not employ either Mr. Moffitt or Mr. Huza as an employee, agent or consultant for a term of at least three years following the execution hereof. To the extent A.R.S. § 38-511 is applicable to this Agreement, CVID hereby represents that the persons significantly involved in the initiating, negotiating, securing, drafting and creating of this Agreement on behalf of CVID are Melvin Shellhorn, Delbert Applebee, Robert Davis and Helen Wells, as past or current members of the Board, and Thelton D. Beck and L. Richard Mabery, CVID's counsel, and the other parties hereto each hereby represents that neither Mr. Beck nor Mr. Mabery is or has been an employee or agent of or consultant to that party during any time material to the creation of this Agreement. Each party hereto, other than CVID, also hereby covenants to not employ either Mr. Beck or Mr. Mabery as an employee, agent or consultant for a term of at least
three years following the execution hereof.

12.3 **Use Limitation.** The water made available to the Tribe from the various sources under this Agreement is solely for use on the Reservation, except as otherwise provided. The water made available to the Tribe under this Agreement may be put to any beneficial use or reuse on the Reservation without restriction.

12.4 **Effect of Non-Use.** In recognition of the Tribe's waiver and release of claims based on federal law pursuant to Exhibit 9.1 hereto, said federal-law claims not being subject to loss due to non-use under current federal law, the parties recognize and acknowledge that the water rights and entitlements acquired or confirmed by the Tribe hereunder are not subject to forfeiture or abandonment due to non-use by the Tribe. The parties agree to not assert the defenses of forfeiture, abandonment due to non-use or like defenses based upon the passage of time against the Tribe.

12.5 **Environmental Compliance.** Environmental compliance shall be as set forth in Section 8 of the Act.

12.6 **Disclaimer.** Nothing in this Agreement shall be construed as establishing any standard to be used for the quantification of federal reserved rights, aboriginal claims, or any other Indian water claims in any judicial or administrative proceeding.

12.7 **Evidentiary Effect of Negotiations.** This Agreement has been arrived at in the process of good faith negotiation for the purpose of resolving legal disputes, including pending litigation, and all parties hereto agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or
be used in any legal proceeding other than one for approval, confirmation, interpretation, or enforcement of this Agreement.

12.8 **Effect of Execution by State of Arizona.** Execution of this Agreement by the State of Arizona constitutes the confirmation that it is the policy of the State of Arizona to assist in carrying out the provisions hereof to the extent it may do so in accordance with its responsibility and authority under the law. It is not intended that this Agreement shall be determinative of the action to be taken by any state agency in any adjudicatory or rule making proceeding. Nothing herein shall be construed as a waiver of any rights which the State of Arizona has as to its trust lands under the Enabling Act.

12.9 **Rights Held in Trust.** The Tribe's rights hereunder shall be held in trust by the United States for the benefit of the Tribe as other Indian rights are held. Nothing contained in this Agreement shall be deemed to alter, amend or diminish the status of those rights.

12.10 **Succession.** This Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and assigns of the parties hereto.

12.11 **Destruction of Facilities.** To the extent that use of water by the Tribe under this Agreement is dependent on diversion, storage and/or transmission facilities, the destruction of any such facilities by any cause shall not permanently extinguish the Tribe's right to receive water otherwise made available by the affected facility; however, such destruction may temporarily excuse the parties of the obligation to deliver such water to the Tribe until the affected
facility is repaired or replaced or other suitable facilities have
been agreed to by the principal parties in interest. Any party
responsible for repairing or replacing an affected facility under
other contractual arrangements shall have that same obligation under
this Agreement. In the event no party has such an obligation, all of
the parties, including the Secretary, shall use all reasonable efforts
to provide a permanent equitable substitute source for the affected
water supply in a manner consistent with the parties' respective
obligations under this Agreement.

12.12 **Contingent on Appropriation of Funds.** The expenditure or
advance of any money or the performance of any obligation by the
United States under this Agreement shall be contingent upon
appropriation of funds therefor. No liability shall accrue to the
United States in case funds are not appropriated.

12.13 **Officials Not to Benefit.** No member of or delegate to
Congress or Resident Commissioner shall be admitted to any share or
part of this Agreement or to any benefit that may arise herefrom.
This restriction shall not be construed to extend to this Agreement
if made with a corporation or company for its general benefit.

12.14 **Additional Documents.** Each party agrees in good faith to
execute such further or additional documents as may be necessary or
appropriate to fully carry out the intent and purpose of this
Agreement.

12.15 **Governing Law.** This Agreement shall be governed by all
applicable laws of the United States of America and the State of
Arizona. Nothing contained herein waives the right of the United
States or the Tribe to object to the jurisdiction of the courts of the
State of Arizona to adjudicate any disputes arising under this
Agreement.

12.16  **Headings.** The headings of this Agreement are for reference
only and shall not limit or define the meaning of any provision of
this Agreement.

12.17  **Counterparts.** This Agreement may be executed in duplicate
originals, each of which shall constitute an original Agreement.

12.18  **Notices.** Any notice to be given hereunder shall have been
properly given or made when received by the officer or manager
designated herein, or two (2) days after deposit with the United
States Postal Service, certified or registered mail, postage prepaid,
addressed as follows:

If to the United States:

Secretary of the Interior
Department of the Interior
Washington, D.C.  20240

Area Director
Phoenix Area Office
Bureau of Indian Affairs
P.O. Box 10
Phoenix, Arizona  85001

With a copy to:

Office of Solicitor
Department of Interior
Two North Central Avenue
Suite 1130
Phoenix, Arizona  85004
If to the State of Arizona:

Office of the Governor
1700 West Washington
Phoenix, Arizona 85007

With a copy to:

Director
Arizona Department of Water Resources
15 South 15th Avenue, Suite 204
Phoenix, Arizona 85007

If to the Tribe:

Yavapai-Prescott Indian Tribe
530 Merritt Avenue
Prescott, Arizona 86301
Attn: President

With a copy to:

Steptoe & Johnson
40 North Central Avenue, 24th Floor
Phoenix, Arizona 85004
Attn: David J. Bodney, Esq.

If to Prescott:

Prescott City Manager
P.O. Box 2059
Prescott, Arizona 86302

With copies to:

Prescott City Attorney
P.O. Box 2059
Prescott, Arizona 86302

City of Prescott
Environmental Services Director
P.O. Box 2059
Prescott, Arizona 86302
If to CVID:

Chino Valley Irrigation District
P.O. Box 105
Chino Valley, Arizona 86323
Attn: Bob Williams

With a copy to:

Murphy, Schmidt, Lutey & Beck
P.O. Box 591
Prescott, Arizona 86302-0591
Attn: Thelton D. Beck, Esq.

or addressed to such other address as the party to receive such notice shall have designated by written notice given as required by this paragraph.

12.19 Entire Agreement. This Agreement constitutes the entire agreement between the parties and no understandings or obligations not herein expressly set forth shall be binding upon them. This Agreement may not be modified or amended in any manner unless in writing and signed by the parties.

12.20 Term. The term of this Agreement shall be in perpetuity.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement herein the day and year first above written.

THE UNITED STATES OF AMERICA

By: __________________________
    Secretary of the Interior
STATE OF ARIZONA

By: ____________________________
Governor

YAVAPAI-PRESCOTT INDIAN TRIBE

By: ______________________________
Stan Rice, Jr., President

CITY OF PRESCOTT, a municipal corporation

By: ______________________________
Daiton Rutkowski, Mayor

Attest:
Marie L. Watson, City Clerk

Pursuant to Arizona Revised Statutes Section § 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the City of Prescott, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the City of Prescott.

John R. Morfit, City Attorney

CHINO VALLEY IRRIGATION DISTRICT

By: ______________________________
Robert J. Davis

Pursuant to Arizona Revised Statutes Section § 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Chino Valley Irrigation District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Chino Valley Irrigation District.

Thelton D. Beck, Attorney
SYNOPSIS: An Act

To provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I--YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT

[101] SEC. 101.--SHORT TITLE.

This title may be cited as the "Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994".

[102] SEC. 102. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) Findings.--The Congress finds that--

(1) it is the policy of the United States, in fulfillment of its trust responsibility to the Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities need to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 7, 1935, and by actions subsequent thereto, the United States established a reservation for the Yavapai-Prescott Indian Tribe in Arizona adjacent to the city of Prescott;
(5) proceedings to determine the full extent of Yavapai-Prescott Tribe's water rights are currently pending before the Superior Court of the State of Arizona in and for Maricopa County, as part of the general adjudication of the Gila River system and source;

(6) recognizing that final resolution of the general adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the full extent of the Yavapai-Prescott Tribe's entitlement to water and the availability of water supplies to fulfill that entitlement, and impair orderly planning and development by the Tribe and the city of Prescott; the Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have sought to settle all claims to water between and among them;

(7) representatives of the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have negotiated a Settlement Agreement to resolve all water rights claims between and among them, and to provide the Tribe with long term, reliable water supplies for the orderly development and maintenance of the Tribe's reservation;

(8) pursuant to the Settlement Agreement and the Water Service Agreement, the quantity of water made available to the Yavapai-Prescott Tribe by the city of Prescott and the Chino Valley Irrigation District will be secured, such Agreements will be continued in perpetuity, and the Tribe's continued on-reservation use of water for municipal and industrial, recreational and agricultural purposes will be provided for;

(9) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and assist in firming up the long-term water supplies of the city of Prescott and the Yavapai-Prescott Tribe so as to enable the Tribe to utilize fully its water entitlements in developing a diverse, efficient reservation economy; and

(10) the assignment of the CAP contract of the Yavapai-Prescott Tribe and the CAP subcontract of the city of Prescott is a cost-effective means to ensure reliable, long-term water supplies for the Yavapai-Prescott Tribe and to promote efficient, environmentally sound use of available water supplies in the Verde River basin.

(b) Declaration of Purposes.--The Congress declares that the purposes of this title are--

(1) to approve, ratify and confirm the Settlement Agreement among the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement;

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Yavapai-Prescott Tribe as provided in the Settlement Agreement and this title;
(4) to require that expenditures of funds obtained through the assignment of CAP contract entitlements by the Yavapai-Prescott Tribe and Prescott for the acquisition or development of replacement water supplies in the Verde River basin shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of riparian habitat, flows and biota of the Verde River and its tributaries; and

(5) to repeal section 406(k) of Public Law 101-628 which authorizes $30,000,000 in appropriations for the acquisition of land and water resources in the Verde River basin and for the development thereof as an alternative source of water for the Fort McDowell Indian Community.

[Sec. 103] SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(2) The term "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 1, 1988, for the delivery of water and repayment of costs of the Central Arizona Project.

(3) The term "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(4) The term "Prescott AMA" means the Active Management Area, established pursuant to Arizona law and encompassing the Prescott ground water basin, wherein the primary goal is to achieve balance between annual ground water withdrawals and natural and artificial recharge by the year 2025.

(5) The term "Prescott" means the city of Prescott, an Arizona municipal corporation.

(6) The term "Reservation" means the reservation established by the Act of June 7, 1935 (49 Stat. 332) and the Act of May 18, 1956 (70 Stat. 157) for the Yavapai-Prescott Tribe of Indians.

(7) The term "Secretary" means the Secretary of the United States Department of the Interior.

(8) The term "Settlement Agreement" means that agreement entered into by the city of Prescott, the Chino Valley Irrigation District, the Yavapai-Prescott Indian Tribe, the State of Arizona, and the United States, providing for the settlement of all water claims between and among them.

(9) The term "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

(10) The term "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the city of Prescott, as approved by the Secretary, providing for water, sewer, and effluent service from the city of Prescott to the Yavapai-Prescott Tribe.
SEC. 104. RATIFICATION OF SETTLEMENT AGREEMENT.

(a) Approval of Settlement Agreement.--To the extent the Settlement Agreement does not conflict with the provisions of this title, such Agreement is approved ratified and confirmed. The Secretary shall execute and perform such Agreement and shall execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(b) Perpetuity.--The Settlement Agreement and Water Service Agreement shall include provisions which will ensure that the benefits to the Tribe thereunder shall be secure in perpetuity. Notwithstanding the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81) relating to the term of the Agreement, the Secretary is authorized and directed to approve the Water Service Agreement with a perpetual term.

SEC. 105. ASSIGNMENT OF CAP WATER.

The Secretary is authorized and directed to arrange for the assignment of, or to purchase, the CAP contract of the Tribe and the CAP subcontract of the city of Prescott to provide funds for deposit into the Verde River Basin Water Fund established pursuant to section 106.

SEC. 106. REPLACEMENT WATER FUND; CONTRACTS.

(a) Fund.--The Secretary shall establish a fund to be known as the "Verde River Basin Water Fund" (hereinafter called the "Fund") to provide replacement water for the CAP water relinquished by the Tribe and by Prescott. Moneys in the Fund shall be available without fiscal year limitations.

(b) Content of Fund.--The Fund shall consist of moneys obtained through the assignment or purchase of the contract and subcontract referenced in section 105, appropriations as authorized in section 109, and any moneys returned to the Fund pursuant to subsection (d) of this section.

(c) Payments From Fund.--The Secretary shall, subsequent to the publication of a statement of findings as provided in section 112(a), promptly cause to be paid from the Fund to the Tribe the amounts deposited to the Fund from the assignment or purchase of the Tribe's CAP contract, and, to the city of Prescott, the amounts deposited to the Fund from the assignment or purchase of the city's CAP subcontract.

(d) Contracts.--The Secretary shall require, as a condition precedent to the payment of any moneys pursuant to subsection (c), that the Tribe and Prescott agree, by contract with the Secretary, to establish trust accounts into which the payments would be deposited and administered, to use such moneys consistent with the purpose and intent of section 107, to provide for audits of such accounts, and for the repayment to the Fund, with interest, any amount determined by the Secretary not to have been used within the purpose and intent of section 107.

SEC. 107. EXPENDITURES OF FUNDS.

(a) By the City.--All moneys paid to Prescott for relinquishing its CAP subcontract and deposited into a trust account pursuant to section 106(d),
shall be used for the purposes of defraying expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under this title. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated water rights, development of ground water resources outside the Prescott Active Management Area established pursuant to the laws of the State of Arizona, and artificial recharge; except that none of the moneys paid to Prescott may be used for construction or renovation of the city's existing waterworks or water delivery system.

(b) By the Tribe.--All funds paid to the Tribe for relinquishing its CAP contract and deposited into a trust account pursuant to section 106(d), shall be used to defray its water service costs under the Water Service Agreement or to develop and maintain facilities for on-reservation water or effluent use.

(c) No Per Capita Payments.--No amount of the Tribe's portion of the Fund may be used to make per capita payments to any member of the Tribe, nor may any amount of any payment made pursuant to section 106(c) be distributed as a dividend or per capita payment to any constituent, member, shareholder, director or employee of Prescott.

(d) Disclaimer.--Effective with the payment of funds pursuant to section 106(c), the United States shall not be liable for any claim or cause of action arising from the use of such funds by the Tribe or by Prescott.

[SEC. 108. ENVIRONMENTAL COMPLIANCE.]

The Secretary, the Tribe and Prescott shall comply with all applicable Federal environmental and State environmental and water laws in developing alternative water sources pursuant to section 107(a). Development of such alternative water sources shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of the riparian habitat, flows and biota of the Verde River and its tributaries.

[SEC. 109. APPROPRIATIONS AUTHORIZATION AND REPEAL.]

(a) Authorization.--There are authorized to be appropriated to the Fund established pursuant to section 106(a):

(1) Such sums as may be necessary, but not to exceed $200,000, to the Secretary for the Tribe's costs associated with judicial confirmation of the settlement.

(2) Such sums as may be necessary to establish, maintain and operate the gauging station required under section 111(e).

(b) State Contribution.--The State of Arizona shall contribute $200,000 to the trust account established by the Tribe pursuant to the Settlement Agreement and section 106(d) for uses consistent with section 107(b).

(c) Repeal.--Subsection 406(k) of the Act of November 28, 1990 (Public Law 101-628; 104 Stat. 4487) is repealed.

[SEC. 110. SATISFACTION OF CLAIMS.]
(a) Waiver.--The benefits realized by the Tribe or any of its members under the Settlement Agreement and this title shall constitute full and complete satisfaction of all claims by the Tribe and all members' claims for water right or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water and effluent) from time immemorial to the effective date of this title, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this title. Nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's reservation.

(b) Waiver and Release.--The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized and required, as a condition to the implementation of this title, to execute a waiver and release, except as provided in subsection (d) and the Settlement Agreement, of all claim of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) Waiver by United States.--Except as provided in subsection (d) and the Settlement Agreement, the United States, in its own right or on behalf of the Tribe, shall not assert any claim against the State of Arizona or any political subdivision thereof, or against any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona based upon water rights or injuries to water rights of the Tribe and its members or based upon water rights or injuries to water rights held by the United States on behalf of the Tribe and its members.

(d) Rights Retained.--In the event the waivers of claims authorized in subsection (b) of this section do not become effective pursuant to section 112(a), the Tribe, and the United States on behalf of the Tribe, shall retain the right to assert past and future water rights claims as to all reservation lands.

(e) Jurisdiction.--The United States District Court for the District of Arizona shall have original jurisdiction of all actions arising under this title, the Settlement Agreement and the Water Service Agreement, including review pursuant to title 9, United States Code, of any arbitration and award under the Water Service Agreement.

(f) Claims.--Nothing in this title shall be deemed to prohibit the Tribe, or the United States on behalf of the Tribe, from asserting or maintaining any claims for the breach or enforcement of the Settlement Agreement or the Water Service Agreement.

(g) Disclaimer.--Nothing in this title shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the reservation of any member of the Tribe.

(h) Full Satisfaction of Claims.--Payments made to Prescott under this title shall be in full satisfaction for any claim that Prescott might have against the Secretary or the United States related to the allocation, reallocation,
SEC. 111. MISCELLANEOUS PROVISIONS.

(a) Joining of Parties.--In the event any party to the Settlement Agreement should file a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of the Settlement Agreement or this title, naming the United States of America or the Tribe as parties, authorization is hereby granted to join the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived. In the event Prescott submits a dispute under the Water Service Agreement to arbitration or seeks review by the United States District Court for the District of Arizona of an arbitration award under the Water Service Agreement, any claim by the Tribe to sovereign immunity from such arbitration or review is hereby waived.

(b) No Reimbursement.--The United States of America shall make no claims for reimbursement of costs arising out of the implementation of the Settlement Agreement or this title against any lands within the Yavapai-Prescott Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) Water Management.--The Tribe shall establish a ground water management plan for the Reservation which, except to be consistent with the Water Service Agreement, the Settlement Agreement and this title, will be compatible with the ground water management plan in effect for the Prescott Active Management Area and will include an annual information exchange with the Arizona Department of Water Resources. In establishing a ground water management plan pursuant to this section, the Tribe may enter into a Memorandum of Understanding with the Arizona Department of Water Resources for consultation. Notwithstanding any other law, the Tribe may establish a tribal water code, consistent with the above-describe water management plan, under which the Tribe will manage, regulate, and control the water resources granted it in the Settlement Act, the Settlement Agreement, and the Water Service Agreement, except that such management, regulation and control shall not authorize any action inconsistent with the trust ownership of the Tribe's water resources.

(d) Gauging Station.--The Secretary, acting through the Geological Survey, shall establish, maintain and operate a gauging station at the State Highway 89 bridge across Granite Creek adjacent to the reservation to assist the Tribe and the CVID in allocating the surface flows from Granite Creek as provided in the Settlement Agreement.

SEC. 112. EFFECTIVE DATE.

(a) Waivers and Releases.--The waivers and releases required by section 110(b) of this title shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that--

(1) (A) the Secretary has determined that an acceptable party, or parties, have executed contracts for the assignments of the Tribe's CAP contract and the property of Prescott's CAP subcontract, and the proceeds from the assignments have been deposited into the Fund as provided in section 106(d); or
WATER SERVICE AGREEMENT

BETWEEN

YAVAPAI-PRESCOTT INDIAN TRIBE AND

CITY OF PRESCOTT
AGREEMENT

THIS AGREEMENT, dated as of ____________, 1994, is entered into by and between the Yavapai-Prescott Indian Tribe and the City of Prescott.

1.0 RECITALS

1.1 The Yavapai-Prescott Indian Tribe, hereinafter the "Tribe" and the City of Prescott, hereinafter the "City", have previously entered into certain agreements which provide for the extension of sewer and water lines and the furnishing of water service and sewer disposal service to the Yavapai-Prescott Indian Reservation, hereinafter the "Reservation". A list of these agreements is attached as Exhibit 1.1 to this Agreement.

1.2 The Tribe, the City and the Secretary of the Interior of the United States of America, hereinafter the "Secretary", are parties to certain other instruments which provide for the installation, maintenance and repair of certain water and sewer lines on the Reservation. A list of these instruments is attached as Exhibit 1.2 to this Agreement.

Pursuant to the Act, the Tribe, the City and other parties are authorized to enter into a Yavapai-Prescott Indian Tribe Water Rights Settlement Agreement, hereinafter the "Settlement Agreement." Subparagraphs 5.1 and 5.3 of the Settlement Agreement ratify and incorporate the terms of this Agreement.

The Tribe and the City desire to enter into this Agreement to provide for water, sewer and effluent service to the Reservation.

NOW, THEREFORE, in consideration of the premises and of the promises and agreement hereinafter set forth, the parties hereto agree as follows:

2.0 EXISTING AGREEMENTS AND EASEMENTS

2.1 The previous agreements listed in Exhibit 1.1 are superseded by the terms of this Agreement unless expressly stated otherwise herein.

2.2 The grants of easements and rights-of-way listed in Exhibit 1.2 are hereby ratified and approved, with the exception of that portion of the easement listed in paragraph B of Exhibit 1.2 which was abandoned pursuant to the 1980 Agreement between the Tribe and the City, as well as any other easements or portions thereof, if any, which have been amended, modified or relinquished pursuant to previous agreements between the Tribe and the City. All easements and rights-
of-way listed in Exhibit 1.2 are subject to the rental payments, term and conditions contained in the granting instruments, all applicable laws and regulations and the provisions of subparagraph 2.6.

2.3 Paragraphs 1 and 2 of the First Amendment to the 1980 Water and Sewer Agreement (described in paragraph I of Exhibit 1.1), which provide for the payment of an annual rental fee for the easement described in paragraph G of Exhibit 1.2 and a waiver of claims by the Tribe and the City, remain in full force and effect.

2.4 Nothing in this Agreement shall in any way modify, change or abrogate any rights of the Tribe or its members under those provisions of the documents described in paragraph F of Exhibit 1.2 and paragraphs F and H of Exhibit 1.1 which provide for the domestic water service for Tribal members through one meter, for payment for water and sewer service by the Tribe on behalf of its members to the City, and for the ownership of certain residential installations.

2.5 The Tribe hereby waives any rights which it may enjoy under paragraph 2 of the deed of easement described in paragraph C of Exhibit 1.2 to receive sewer service from the City without cost and make unlimited connections to the City sewer system.

2.6 No existing main, line, pumping station or other installation on or across the Reservation, or any easement or right-of-way associated therewith, may be conveyed by the City to a third
party without the Tribe's written consent; provided, however, that the Tribe hereby grants its consent for such a conveyance from the City to a regional water authority or other public entity which has taxic and/or regulatory powers and has at least one Tribal nominee servin on its governing board; and provided further that any property s conveyed would be subject to the terms of this subparagraph and all other applicable terms of this Agreement and any granting instruments. No existing main, line, pumping station or other installation on or across the Reservation may be removed by the City without the Tribe's written consent; provided, however, that the Tribe shall no unreasonably withhold its consent to the City's removal of a: installation that was not financed, constructed or acquired by the Tribe, Reservation users or a Federal agency or other party on behal of the Tribe if removal of the installation would not adversely affect the delivery of water or sewer service to the Tribe or any use: located on the Reservation. In the event of abandonment of any existing easement, right-of-way or installation on or across the Reservation, the provisions of subparagraph 3.4 shall apply. In the circumstances described in subparagraph 8.5, all existing installations on or across the Reservation designed or used to provide water, effluent or sewer service to Reservation users, and any easements and rights-of-way associated therewith, shall revert to the Tribe in the manner provided by subparagraph 3.5; provided, however, that existing installations and associated easements and rights-of-way which provide or were designed to provide service to both Reservation users and non-Reservation users shall, in such circumstances, be
jointly owned and operated by the Tribe and the City or its assignee. The provisions of this subparagraph shall also apply to all mains, lines, pumping stations and other installations, and all easements and rights-of-way associated therewith, which are located off the Reservation and were financed, constructed or acquired by the Tribe, Reservation users or a Federal agency or other party on behalf of the Tribe.

2.7 Should the future residential, commercial, industrial or other economic development on the Reservation necessitate the upgrade or enlargement of an existing installation on or across the Reservation and, due to limitations in the original grant of easement, a new easement is required for the upgraded or enlarged installation, the provisions of subparagraph 3.7 shall apply. Should future development outside the Reservation necessitate the upgrade or enlargement of an existing installation on or across the Reservation and, due to limitations in the original grant of easement, a new easement is required for the upgraded or enlarged installation, the provisions of subparagraph 3.6(B) shall apply; provided, however, that, subject to the Secretary's discretion, the fair market value of the new easement shall be offset by the fair market value of the previous easement and by any direct benefits accruing to the Tribe by virtue of the upgrade or enlargement of the installation or by the Tribe's actual use of City easements pursuant to subparagraph 3.8(A). If the upgrade or enlargement of an existing installation does not require a new easement, the City shall not be required to pay any
additional amount to the Tribe for making the upgrade or enlargement within the original easement. If the upgraded or enlarged installation is situated at the same location as the previous installation, the new easement shall be considered "adjacent and parallel" to the previous easement for purposes of subparagraph 3.6(B).

3.0 WATER INSTALLATIONS AND EASEMENTS

3.1 The Tribe agrees to pay for and install (or have paid for and installed by Reservation users) upon the Reservation all water and sewer mains, lines, pumping stations and other installations required in connection with the development of the Reservation and used solely by Reservation water or sewer users, in accordance with plans and specifications to be prepared by the Tribe’s registered engineers (or the registered engineers of a Reservation user) pursuant to City standards and subject to approval by the City. Upon satisfactory completion of such installations, the City’s Environmental Services Director or his designee shall notify the Tribe (or the Reservation user) in writing that such installations are thereby accepted. Should any disagreement arise between the Tribe (or the Reservation user) and the City with regard to the engineering, construction or installation of such installations, the Tribe’s engineer (or the Reservation user’s engineer) and the City Environmental Services Director shall agree upon a third engineer within ten (10) calendar days after such disagreement and the decision of such third engineer shall be final.

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and shall be made within fifteen (15) calendar days after selectio
of such third engineer. Should the Tribe's engineer (or th
Reservation user's engineer) and the City Environmental Service
Director fail to agree on the selection of a third engineer pursuan
to this section, the matter in disagreement shall be subject to
arbitration pursuant to paragraph 8.2.

3.2 Following acceptance by the City Environmental Services
Director, such installations shall become the property of the City,
free and clear of any and all encumbrances, claims or liens whatsoever
for use thereof by the City, and the Tribe (or the Reservation user)
shall execute and deliver to the City a bill of sale evidencing the
transfer of title to such installations, subject to the provisions of
subparagraphs 3.3, 3.4 and 3.5. The Tribe also agrees to approve the
grant by the Secretary to the City of any easement or right-of-way on
or across the Reservation required for the extension of water and
sewer installations to service the development of the Reservation, and
hereby grants a license to the City to enter upon existing Reservation
streets and roads to repair and maintain such installations.

3.3 Upon acceptance by the City of mains, lines, pumping
stations and other installations constructed by the Tribe (or the
Reservation user), and easements and rights-of-way associated
therewith, for residential, commercial or industrial development on
the Reservation, the City agrees in connection therewith to:
A. Retain title to the installations, easements and rights-of-way for not less than ninety-nine (99) years, subject to the provisions of subparagraphs 3.4 and 3.5, and thereafter to not convey title to a third party without the written consent of the Tribe, provided, however, that the City may convey the installations, easements and rights-of-way to a regional water authority or other public entity which has taxing and/or regulatory powers and has at least one Tribal nominee serving on its governing board; and provide further that all installations, easements and rights-of-way so conveyed would be subject to the terms of this subparagraph 3.3 and subparagraphs 3.4 and 3.5, and all other applicable terms of this Agreement and any granting instruments.

B. Not remove said installations from the Reservation realty without the written consent of the Tribe.

C. At the expense of the City, to maintain the installations adequately to service residential, commercial and industrial enterprises on the Reservation.

D. Not encumber any such installations or related easements or rights-of-way.

3.4 The City shall be deemed to have abandoned an easement if the mains, lines, pumping stations or other installations (the "installations") located within such easement are not used to provide water or sewer service for a continuous period of one year. Upon such abandonment, the following provisions shall apply:
A. The City, upon written request by the Tribe, shall execute and deliver to the Tribe an instrument in form and substance reasonably satisfactory to the Tribe terminating the easement. Such instrument shall be suitable for recording with the Yavapai County Recorder so as to give notice of such termination in the official records of Yavapai County.

B. If the installations located within such easement were paid for by the Tribe, Reservation users or a Federal agency or other party on behalf of the Tribe, such installations shall become the property of the Tribe, free and clear of any and all encumbrances, claims or liens whatsoever, and the City, upon written request by the Tribe, shall execute and deliver to the Tribe a bill of sale or other instrument in form and substance reasonably satisfactory to the Tribe evidencing the transfer of title of such installations to the Tribe.

C. If the installations located within such easement were not paid for by the Tribe, Reservation users or a Federal agency or other party on behalf of the Tribe, the City, subject to subparagraph 3.4(D), shall have one year from the date of its receipt of the request referred to in subparagraph 3.4(A) to remove such installations and may enter upon the easement property to effect such removal. At the expiration of such one year period any such installations not removed shall become the property of the Tribe, free and clear of any and all encumbrances, claims or liens whatsoever, and the City, upon written request by the Tribe, shall execute and deliver to the Tribe a bill of sale or other instrument in form and substance
reasonably satisfactory to the Tribe evidencing the transfer of title of such unremoved installations to the Tribe.

D. Notwithstanding subparagraph 3.4(C), the City may not remove any installations if doing so would adversely affect the delivery of water or sewer service to the Tribe or any user located on the Reservation.

3.5 In the circumstances described in subparagraph 8.5, all installations, easements and rights-of-way conveyed to the City pursuant to subparagraph 3.2 shall become the property of the Tribe, free and clear of any and all encumbrances, claims or liens whatsoever, and the City shall, upon written request by the Tribe, execute and deliver to the Tribe a bill of sale and/or deed evidencing the transfer of title to such installations, easements and rights-of-way.

3.6 Nothing contained in this paragraph 3.0 or this Agreement shall be construed to require the Tribe, Reservation users or a Federal agency or other party on behalf of the Tribe to:

A. Pay for, install or upgrade any main, line, pumping station or other installation which serves any user outside the Reservation, or pay for, install or upgrade any off-Reservation main, line, pumping station or other installation.

B. Approve the grant of any easement or right-of-way on or across the Reservation for any main, line, pumping station or other installation which serves any user outside the Reservation; provided,
however, that the Tribe agrees to use its best efforts in assisting the City in obtaining such additional easements or rights-of-way adjacent and parallel to existing easements or rights-of-way across the Reservation for fair market value. Said fair market value is to be offset by any direct benefits accruing to the Tribe by virtue of the operation of the installation or by the Tribe’s actual use of City easements pursuant to subparagraph 3.8(A). At the City’s option, payment for additional easements and rights-of-way pursuant to this subparagraph may be made in one payment for the present value of the easement throughout the term thereof. All easements and rights of way remain subject to the Secretary’s discretion in granting such easements or rights-of-way, the requirements of Federal law and such non-compensatory terms and conditions as are applicable to the adjacent easement or right-of-way. Nothing contained in this subparagraph or this Agreement shall be construed to require the Tribe to approve the grant of any easement which is not adjacent and parallel to any existing easement or right-of-way or is inconsistent with existing or planned Reservation use or occupancy. All easements granted pursuant to this subparagraph, and the installations associated therewith, shall be subject to the provisions of subparagraph 2.6.

C. Grant or convey to the City any water or sewer installations, or approve the grant by the Secretary to the City of any easements or rights-of-way associated therewith, which are not connected to the City’s water or sewer systems.
D. Grant or convey to the City the right to use any mains lines, pumping stations or other installations, or any easements or rights-of-way associated therewith, which were financed, constructed or acquired by the Tribe or by a Federal agency or other party on behalf of the Tribe, to service any user outside the Reservation without the Tribe’s written consent; provided, however, that if the Tribe and the Secretary approve of or grant such use by the City, and determine that such use would not adversely impact the Tribe, the Tribe hereby agrees that such use of such installations, easements or rights-of-way shall be without payment of compensation, subject to the Secretary’s discretion; and provided further that nothing contained in this subparagraph 3.6(D) or this Agreement shall be construed to require the Tribe to approve the grant of any easement or extension of an easement which is not adjacent and parallel to any existing easement or right-of-way or is inconsistent with existing or planned Reservation use or occupancy. Unless the Tribe agrees otherwise in writing, City use of installations, easements or rights-of-way pursuant to this subparagraph shall in no manner affect the reversion of such installations, easements or rights-of-way to sole Tribal ownership pursuant to subparagraphs 2.6, 3.4 and 3.5 in the circumstances described in those subparagraphs.

E. Grant or convey to the City any water or sewer installations, or approve the grant by the Secretary to the City of any easements or rights-of-way, after City water and sewer service to the Tribe and Reservation users has terminated pursuant to subparagraph 8.5.
3.7 Should the future residential, commercial, industrial or other economic development on the Reservation necessitate, in whole or in part, an expansion of the City's water or sewer installations or water or sewer plant capacity, the Tribe agrees to approve the grant by the Secretary to the City of any future easements or rights-of-way across the Reservation for such required installations without payment of compensation, subject to the Secretary's discretion in granting such easements or rights-of-way, the requirements of Federal law and such non-compensatory terms and conditions as are applicable to an adjacent easement or right-of-way; provided, however, that nothing contained in this subparagraph or this Agreement shall be construed to require the Tribe to approve the grant of any easement which is not adjacent and parallel to any existing easement or right-of-way or is inconsistent with existing or planned Reservation use or occupancy. All easements granted pursuant to this subparagraph, and the installations associated therewith, shall be subject to the provisions of subparagraph 2.6.

3.8 To the extent it is necessary or desirable to the Tribe to construct, operate and maintain off-Reservation mains, lines, pumping stations or other installations to enjoy its rights pursuant to paragraph 7.0 or, in the circumstances described in subparagraph 8.5 pursuant to the Type 2 Grandfathered Groundwater Rights or equivalent thereof, as set forth in subparagraph 8.4(C) of this Agreement and subparagraph 5.4 of the Settlement Agreement, the City agrees:
A. To grant the Tribe the right to the non-exclusive use of new or existing City easements or rights-of-way for Tribe installations without payment of compensation, where such joint use is not inconsistent with the terms of such easements or rights-of-way and is not inconsistent with existing or planned use of the easement or rights-of-way. In the event the City grants the Tribe such right, the City shall receive a credit against any payment obligation the City may owe to the Tribe for new or existing easements or rights-of-way across the Reservation in an amount equal to the adjusted value of any such right granted to the Tribe pursuant to the preceding sentence. In determining such adjusted value, the value of the Tribe's actual use of City easements or rights-of-way pursuant to this subparagraph 3.8(A) shall be determined and then shall be adjusted downward by the value of the City's actual use of installations which do not serve Reservation users exclusively and which were financed, constructed or acquired by the Tribe or by a Federal agency or other party on behalf of the Tribe, or easements or rights-of-way on the Reservation, pursuant to subparagraph 3.6(D).

B. When joint use of City easements or rights-of-way pursuant to subparagraph 3.8(A) is not possible, to use its best efforts in assisting the Tribe in obtaining additional easements or rights-of-way adjacent and parallel to existing City easements or rights-of-way for fair market value.

4.0 WATER SERVICE
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4.1 The City agrees to allow the Tribe (and Reservation water users) to make such connections, extensions or additions to water installations which presently exist upon or adjacent to the Reservation or are hereafter constructed upon or adjacent to the Reservation as may be deemed necessary or desirable by the Tribe for the purpose of providing water service to the Tribe and existing and future Reservation water users.

4.2 Subject to the granting of any necessary easement or right-of-way pursuant to subparagraph 3.2 or 3.7, the City agrees to provide and furnish water for all residential uses on the Reservation through distribution facilities which are of sufficient capacity to provide, and do provide, such minimum demand flows, flow durations, residual pressures at each fire-fighting point of service, static pressure ranges and regulated maximum pressures under normal operating conditions as are required for the residential uses and associated water uses (including fire-fighting) and are consistent with the standards of the City for service within city limits and the professional standards of the Insurance Service Organization or comparable entity; provided, however, that the City distribution facilities shall be of sufficient capacity to provide, and do provide, a minimum demand flow for residential uses of at least one thousand (1000) gallons per minute with a residual pressure of twenty (20) pounds per square inch at each fire-fighting point of service and a static pressure range of fifty (50) pounds of pressure per square inch to one hundred (100) pounds of pressure per square inch at each point.
of consumption, with the highest pressure regulated to a maximum of one hundred (100) pounds of pressure per square inch at each point of consumption under normal operating conditions; and provided further that nothing contained herein shall be construed to create any City liability for inability to provide the capacities, flows, flow durations or pressures set forth herein for Reservation water uses due solely and proximately to a design or construction defect in installations constructed by the Tribe or Reservation water user pursuant to paragraph 3.1.

4.3 Subject to the granting of any necessary easement or right-of-way pursuant to subparagraph 3.2 or 3.7, the City agrees to provide and furnish water for all industrial or commercial uses on the Reservation (including multi-family residential structures) through distribution facilities which are of sufficient capacity to provide, and do provide, such minimum demand flows, flow durations, residual pressures at each fire-fighting point of service, static pressure ranges and regulated maximum pressures under normal operating conditions as are required for the industrial and commercial uses and associated water uses (including fire-fighting) and are consistent with the standards of the City for service within city limits and the professional standards of the Insurance Service Organization or comparable entity; provided, however, that the City distribution facilities shall be of sufficient capacity to provide, and do provide, a minimum demand flow for industrial and commercial uses of at least two thousand five hundred (2500) gallons per minute with a residual pressure of fifty (50) pounds per square inch at each fire-fighting
point of service and a static pressure range of fifty (50) pounds of
pressure per square inch to one hundred (100) pounds of pressure per
square inch at each point of consumption, with the highest pressure
regulated to a maximum of one hundred (100) pounds of pressure per
square inch at each point of consumption under normal operating
conditions; and provided further that nothing contained herein shall
be construed to create any City liability for inability to provide the
capacities, flows, flow durations or pressures set forth herein for
Reservation water uses due solely and proximately to a design or
construction defect in installations constructed by the Tribe or
Reservation water user pursuant to paragraph 3.1.

4.4 If the Tribe determines in good faith that the residential,
industrial or commercial development within the Reservation results
in the need for expanded water plant or distribution facilities to
provide surplus water flows (i.e., unusual capacity, flow or pressure
demands which are in excess of the standard residential, industrial
and commercial water requirements referenced in subparagraphs 4.2 and
4.3), the City shall use all diligent efforts to enlarge or expand
such plant and distribution facilities within the City’s service area
in order to provide such surplus flows; provided, however, that the
City may require the Reservation water user or users requiring the
surplus flows to pay the costs of providing such surplus flows.

4.5 All water delivered by the City pursuant to this paragraph
4.0 shall meet or exceed all applicable water quality standards
established by the Arizona Department of Environmental Quality and all
other agencies having jurisdiction.
4.6 Nothing contained in this paragraph 4.0 or this Agreement shall be construed to:

A. Prohibit the Tribe from owning, constructing, operating or maintaining a separate Reservation water system which is not connected to the City's water system.

B. Prohibit the City and Tribe from jointly owning, constructing, operating or maintaining water service installations or systems for Reservation water use or for integrated on-Reservation and off-Reservation water use.

C. Prohibit the Tribe from withdrawing and using groundwater pursuant to the Settlement Agreement, or diverting and using surface water pursuant to the Settlement Agreement.

D. Except with respect to on-Reservation facilities exclusively serving Reservation water users, require the Tribe (or Reservation water users) to pay for, install or upgrade any City facilities needed to provide the standard capacities, flows, flow durations or pressures provided for in subparagraphs 4.2 and 4.3.

5.0 SHORTAGE PRIORITY

5.1 The City agrees that, in the event of a water shortage which would otherwise result in the reduction or curtailment of water deliveries to Reservation users pursuant to subparagraph 5.2, residential, commercial and industrial users located upon the Reservation shall have an absolute prior right, during any year in which there is such a shortage, over any other user of water supplied by the City, either inside or outside the corporate limits of the City, to the first five hundred and fifty (550) acre-feet per annum.
4.5 All water delivered by the City pursuant to this paragraph 4.0 shall meet or exceed all applicable water quality standards established by the Arizona Department of Environmental Quality and other agencies having jurisdiction.

4.6 Nothing contained in this paragraph 4.0 or this Agreement shall be construed to:

A. Prohibit the Tribe from owning, constructing, operating or maintaining a separate Reservation water system which is not connected to the City's water system.

B. Prohibit the City and Tribe from jointly owning, constructing, operating or maintaining water service installations or systems for Reservation water use or for integrated on-Reservation and off-Reservation water use.

C. Prohibit the Tribe from withdrawing and using groundwater pursuant to the Settlement Agreement, or diverting and using surface water pursuant to the Settlement Agreement.

D. Except with respect to on-Reservation facilities exclusively serving Reservation water users, require the Tribe (or Reservation water users) to pay for, install or upgrade any City facilities needed to provide the standard capacities, flows, durations or pressures provided for in subparagraphs 4.2 and 4.3.

5.0 SHORTAGE PRIORITY
5.1 The City agrees that, in the event of a water shortage which would otherwise result in the reduction or curtailment of water deliveries to Reservation users pursuant to subparagraph 5.2, residential, commercial and industrial users located upon the Reservation shall have an absolute prior right, during any year in which there is such a shortage, over any other user of water supplied by the City, either inside or outside the corporate limits of the City, to the first five hundred and fifty (550) acre-feet per annum of water supplied by the City. During such times as this absolute priority is exercised by the Tribe to prevent reduced or curtailed water deliveries pursuant to subparagraph 5.2, the City may elect after receiving the Tribe's permission, to divert from Granite Creek a quantity of water equivalent to the absolute priority water delivered to the Reservation, said diversions being in lieu of diversion by the Tribe of a corresponding portion of the Tribe's Granite Creek rights as described in the Settlement Agreement and subject to the same restrictions applicable to diversions by the Tribe under Subparagraph 6.2 thereof. Among Reservation users, the Tribe shall determine delivery priorities of this water and so notify the City.

5.2 With the exception of the Tribe's absolute priority water described in subparagraph 5.1, during times of shortage, the remainder of the water delivered through the City's water distribution system may be reduced or curtailed to such classes of users as the City may determine from time to time, subject to the following restrictions.
The next to last class of users to which water deliveries may be reduced or curtailed shall consist of all commercial or industrial users located within the boundaries of the City and the Reservation. The last class of users to which water deliveries may be reduced or curtailed shall consist of all residential or domestic users located within the boundaries of the City and the Reservation, on the same basis. For purposes of this paragraph, the Tribe's governmental offices shall be considered a residential or domestic user. Within each user class as set forth in this paragraph, the reductions in water delivery shall be on a proportional basis, based upon each user's average water consumption over the prior twelve (12) months, as it relates to the total amount of water delivered to members of the class through the City's water delivery system during the same time period.

5.3 The Tribe shall adopt a water conservation code designed to limit per capita residential water use on the Reservation during times of shortage which are comparable to the average per capita residential water use during times of shortage within that portion of the City's water service area which lies outside the boundaries of the Reservation. The Tribal water conservation code shall also implement conservation measures during times of shortage for Reservation commercial and industrial water users which are comparable to the conservation measures applicable during times of shortage to commercial and industrial water users within that portion of the City's water service area which lies outside the boundaries of the
Reservation. Nothing in this subparagraph 5.3 shall be deemed to limit or otherwise affect in any manner the rights of Reservation water users under subparagraphs 5.1 and 5.2 or any other applicable provision of this Agreement.

6.0 SEWER SERVICE

6.1 Subject to any total or partial moratorium on new sewer connections as set forth in subparagraph 6.2, the City agrees to allow the Tribe (and Reservation sewer users) to make such connections, extensions or additions to sewer installations which presently exist upon or adjacent to the Reservation or are hereafter constructed upon or adjacent to the Reservation as may be deemed necessary or desirable by the Tribe for the purpose of providing sewer service to existing and future Reservation sewer users.

6.2 If the rate of development upon the Reservation or within the service area of the City, as the term is defined in subparagraph 6.3, results in the need for expanded sewer treatment or collection and outfall facilities, the City shall use all diligent efforts to obtain the necessary financing for such expansion, so as to expedite development on the Reservation; provided, however, that if the City is temporarily unable to construct such expanded sewer treatment or collection or outfall facilities because of (a) fiscal restraints during the first fiscal year in which construction of expanded facilities is required or (b) refusal of participating agencies, such
as the Environmental Protection Agency, to grant necessary financing and should the City be required to impose a moratorium on future sewer connections or collection and outfall facilities by the Environmental Protection Agency, the Arizona Department of Environmental Quality or any other appropriate agency with jurisdiction, such moratorium shall apply equally to all future sewer connections or collection and outfall facilities, without regard to whether the proposed development is located within that portion of the City's sewer service area which lies outside the boundaries of the Reservation, or that portion of the City's sewer service area which encompasses the Reservation. If the imposition of a moratorium does not result in outright prohibition of future sewer connections, but imposes a limitation on the number thereof, the permitted number of future sewer connections shall be allocated equitably between development on the Reservation and development within that portion of the City's service area outside the Reservation.

6.3 With respect to the need for construction of expanded sewer treatment or collection and outfall facilities, or the use of existing sewer treatment, collection or outfall facilities, the City shall not establish any development priorities, whether fiscal or otherwise, between development within that portion of the City's service area which lies outside the boundaries of the Reservation and development within that portion of the City's sewer service area which encompasses the Reservation, and the City shall not discriminate in any manner between sewer connections on the Reservation and those outside the
Reservation; provided, however, that nothing contained in this subparagraph 6.3 shall prohibit the City from establishing development priorities (including, but not limited to, priorities for sewer connections) that favor development on the Reservation and within the incorporated limits of the City over development in other areas to which the City provides water or sewer service. For purposes of this subparagraph and subparagraph 6.2, the service area of the City shall include (1) the area within the territorial boundaries of the City and (2) any additional area in which the City serves domestic, commercial and industrial users or owns water or sewer mains, lines and booster facilities with which to provide such service.

6.4 Subject to any total or partial moratorium on sewer connections as set forth in subparagraph 6.2, and subject to the granting of any necessary easement or right-of-way pursuant to subparagraph 3.2 or 3.7, the City agrees to allow connection of all future residential, commercial or industrial development on the Reservation to the City sewer system and to accept and treat to the extent required by law all domestic, commercial and industrial sewage and wastewater arising from all existing development on the Reservation and any and all future development on the Reservation delivered to the City sewer system from the Reservation. All Reservation discharges to the City sewer system shall conform to the pretreatment standards applicable to similar non-Reservation discharges into the City sewer system.
6.5 Except with respect to on-Reservation facilities exclusive of those serving Reservation sewer users, nothing in this paragraph 6.0 or the Agreement shall be construed to require the Tribe (or Reservation sewer users) to pay for, install or upgrade any City facilities needed to provide the sewer service provided for in this paragraph 6.0.

7.0 EFFLUENT SERVICE

7.1 All effluent generated on the Reservation shall be considered the property of the Tribe until such time as it leaves the Reservation in City installations and is excess to Tribe requirements for effluent use or conveyance pursuant to subparagraph 7.2, has been conveyed by the Tribe or City to a third party user, or loses its character as effluent. At the Tribe’s option, Reservation effluent may be delivered to the City for treatment and subsequent use or sale by the Tribe pursuant to subparagraph 7.2 or captured and use or sold by the Tribe pursuant to subparagraph 7.3. If neither use nor sold by the Tribe pursuant to subparagraphs 7.2 or 7.3, effluent generated on the Reservation shall be the City’s property for disposition as it pleases.

7.2 The City agrees to allow the Tribe and/or its agents to make such connections, extensions or additions to effluent installations which presently exist or are hereafter constructed as may be deemed necessary or desirable by the Tribe for the purpose of using the effluent generated on the Reservation; provided, however, that such
connections, extensions or additions to effluent installations will not adversely affect such installations and will be subject to the City's approval, such approval to not be unreasonably withheld; or provided further that the cost of constructing, operating or maintaining such connections, extensions or additions shall be borne solely by the Tribe and/or its agents. The Tribe shall have an absolute first priority for all effluent produced from the treatment of Reservation sewage or wastewater at City treatment facilities, and may direct the delivery of such effluent through such connections, extensions or additions to Reservation effluent users, third-party purchasers of Reservation effluent, or a combination thereof. Unless agreed otherwise by the City, such deliveries may not exceed the rate at which Reservation sewage is generated and treated at City treatment facilities, said rate to be determined by multiplying the average daily gallon quantity of water delivered to Reservation users during the previous month by the system-wide percentage of sewage generated to water deliveries or, at the Tribe's option, by the Tribe and/or its agents installing, operating and maintaining at their cost adequate measuring devices for determining the actual rate of sewage generation by Reservation users. The Tribe and/or its agents shall be solely responsible for obtaining and paying the costs for any necessary regulatory permits or approvals for use of the effluent; provided however, that the City shall cooperate with and support the Tribe and/or its agents in obtaining any such permits and approvals. Use of effluent pursuant to this subparagraph 7.2 and this Agreement shall: 
not require a more stringent level of sewage or wastewater treatment by the City than is otherwise effected by City treatment facilities

7.3 The Tribe may, at its option, construct, operate and maintain a separate effluent collection, treatment and distribution system for the use and/or sale of Reservation effluent. To the extent that existing sewer or effluent installations were constructed with Tribal funds (or with federal or private funds where the federal agency or private party involved does not object to a reconveyance pursuant to this subparagraph and the installations were built to provide sewer or effluent service only to Reservation users or off Reservation purchasers of Tribal effluent), the Tribe may request and the City shall execute a reconveyance or deed to the Tribe of such installations and associated easements and rights-of-way free and clear of any and all encumbrances, claims or liens whatsoever in the manner provided by subparagraphs 3.4 and 3.5; provided, however, that the Tribe shall at its expense perform all acts necessary to disconnect such installations from the City's installations, subject to the approval of the City Environmental Services Director to prevent damage to the City's mains and lines, with review by a third engineer as provided in subparagraph 3.1 in case of dispute; and provided further that the City shall not be required to reconvey to the Tribe any easements or rights-of-way which are necessary for City installations which are not the subject of the reconveyance.
7.4 All effluent delivered by the City pursuant to this paragraph 7.0 shall meet or exceed all applicable quality standards established by the Arizona Department of Environmental Quality and all other agencies having jurisdiction.

7.5 Nothing contained in this paragraph 7.0 or this Agreement shall be construed to prohibit the City and Tribe from jointly owning, constructing, operating or maintaining effluent installations or systems for Reservation effluent use or for integrated on-Reservation and off-Reservation effluent use.

7.6 Except with respect to on-Reservation facilities exclusively serving Reservation effluent users and off-Reservation facilities exclusively serving users of Reservation effluent designated by the Tribe pursuant to subparagraph 7.2, and except as provided in paragraph 9.0, nothing in this paragraph 7.0 or this Agreement shall be construed to require the Tribe (or users of Reservation effluent) to pay for, install or upgrade any City facilities needed to provide the effluent service provided for in this paragraph 7.0.

8.0 PERFORMANCE AND DEFAULT

8.1 Should either the Tribe or the City determine that the other party has breached or defaulted in the timely performance of any obligation under this Agreement, the aggrieved party shall provide written notice to that effect and the breaching or defaulting party...
shall have thirty (30) calendar days from the receipt of notice to cure the breach or default, unless the aggrieved party provides written extension of this cure period; provided, however, that failure to deliver water at the flows and pressures provided in subparagraph 4.2 and 4.3 or in accordance with the schedule of priorities provide in paragraph 5.0 must be cured within twenty-four (24) hours of notice, unless the Tribe provides a written extension of this cure period or the City is physically unable to comply with subparagraphs 4.2 and 4.3 or paragraph 5.0 due solely and proximately to an Act of God which the City could not reasonably have prevented, avoided or relieved through foresight or prudence.

8.2 Disputes under this Agreement are subject to arbitration under the rules, regulations and standards of the American Arbitration Association, with review by the United States District Court for the District of Arizona, as provided in Section 10(e) of the Act; provided, however, that the Tribe may, following the cure period provided in subparagraph 8.1, immediately seek equitable relief in United States District Court for the District of Arizona to enforce the provisions of subparagraphs 4.2 and 4.3 or paragraph 5.0; and provided further that the Tribe may commence an action in United States District Court for the District of Arizona seeking a determination pursuant to subparagraph 8.5.1 or 8.5.2 without first submitting the matter to arbitration.
8.3 If the Tribe or the City breaches or defaults in the timely performance of any obligation under this Agreement, the party not in default, to the extent permitted by applicable law, shall be entitled to all damages incurred arising from the breach or default, including reasonable attorneys' fees and cost of suit, as set by the arbitrator hearing examiner or court. The parties expressly agree that the rights conferred by this Agreement may be enforced through specific performance. The foregoing shall not in any way limit or restrict any right or remedy at law or equity which would otherwise be available to the party not in breach or default.

8.4 As security for its performance under this Agreement, the City agrees:

A. That it may not assign its obligations under this Agreement without the written consent of the Tribe, and may not sell, lease, create a security interest in, or otherwise dispose of more than fifty (50%) percent of its water-related assets without the written consent of the Tribe; provided, however, that the Tribe hereby grants its consent for such an assignment or disposition from the City to a regional water authority or other public entity which has taxing and/or regulatory powers and has at least one Tribal nominee serving on its governing board; and provided further any property so conveyed would be subject to all applicable terms of this Agreement.

B. That it shall not merge or consolidate with any other entity unless the successor entity assumes all obligations of the City under this Agreement.
C. That it shall hold 3169 acre-feet per annum of Type Grandfathered Groundwater Rights in trust for the Tribe as security for the performance of this Agreement until such time, if ever, that it shall convey such Type 2 Grandfathered Groundwater Rights to the Tribe in the circumstances described in subparagraph 8.5; provide, however, that, upon any conveyance of the Type 2 Grandfathered Groundwater Rights to the Tribe pursuant to this Agreement, such rights may only be utilized by the Tribe to provide water service to Reservation water users; and provided further that, following any such conveyance, the Tribe shall employ all reasonable efforts to establish a separate entitlement under state law to withdraw groundwater in the Prescott Active Management Area for delivery to and use on the Reservation under equivalent or more favorable terms and conditions (including quantity) as the Type 2 Grandfathered Groundwater Rights as determined by the Arizona Department of Water Resources or successor agency in consultation with the Secretary, and the Type Grandfathered Groundwater Rights shall be subject to reversion to the City if and when the Tribe establishes such an equivalent, separate entitlement.

8.5 In the following circumstances, the City shall, at the Tribe's option, execute the conveyances of installations, easements, rights-of-way and Type 2 Grandfathered Groundwater Rights provided for in subparagraphs 2.6, 3.5 and 8.4:
8.5.1 Upon a judicial determination that any one of the following circumstances exists or has occurred:

A. Inability of the City to provide the capacities, flows, flow durations or pressures for Reservation water uses provided for in subparagraph 4.2 and 4.3 such that the reasonable use and enjoyment of the Reservation is adversely impacted.

B. Failure of the City to act diligently or in good faith to provide surplus flows as provided in paragraph 4.4.

C. Inability of the City to provide the Reservation water users with the absolute priority water provided for in subparagraph 5.1, or failure to act in good faith in exercising the schedule of priorities provided for in paragraph 5.0.

8.5.2 With respect to a conveyance of sewer easements and installations only, upon a judicial determination that the City has failed to act diligently or in good faith in expanding sewer system capacity to prevent a total or partial moratorium on Reservation sewer system connections.

8.5.3 Automatically upon cessation or termination of the City's corporate existence, unless the Tribe has agreed in writing otherwise or unless this Agreement has been assumed by a regional water authority or other public entity pursuant to subparagraph 8.4(A).

8.5.4 As a condition to Tribal consent to the City's disposition of water-related assets pursuant to subparagraph 8.4(A) to any entity
other than a regional water authority or other public entity described in that subparagraph.

9.0 FINANCIAL PROVISIONS

9.1 Except as provided in subparagraphs 9.2 and 9.3, hook ups to City water, sewer and/or effluent installations, by Reservatic water, sewage and effluent users (and any off-Reservation users c Reservation effluent pursuant to subparagraph 7.2), and water, sewer and effluent service to such users pursuant to paragraphs 4.0, 5.0 and 7.0, shall be at the same rate and subject to the same conditions as the rate and conditions imposed upon users who reside within or use water within the corporate limits of the City; provided however, that no conditions imposed on Reservation water, sewer and effluent users or off-Reservation users of Reservation effluent shall be inconsistent with the terms of this Agreement.

9.2 Reservation water, sewer and effluent users, and any off Reservation users of Reservation effluent pursuant to subparagraph 7.2, shall not pay or be liable for any City sales tax, or other for of City tax, for the hook-ups and water, sewer and effluent service set forth in this agreement, and the City hereby agrees to not assess or attempt to collect any taxes from such entities or persons provided, however, that the City may assess, and the Reservatio water, sewer and effluent users and off-Reservation users of Reservation effluent shall pay, a special user fee for hook-ups an
water, sewer and effluent service which is hereby agreed to be equal in rate and amount to the taxes prohibited by this subparagraph. The City hereby waives all claims, if any, it may have to assess or collect a City sales tax or equivalent thereof on hook-ups by, or to, water or sewer service to, Reservation water and sewer users prior to the effective date hereof; provided, however, that nothing contained herein shall obligate the City to refund any sales tax actually paid by Reservation water and sewer users prior to the effective date hereof.

9.3 If the amounts charged by the City (including all charges, hook-up fees, other fees, taxes, assessments and other amounts throughout its service area for water, sewer or effluent service) exceed the City's costs in providing such service, the amounts charged by the City (including all charges, hook-up fees, special user fees, other fees, assessments and other amounts) for Reservation water, sewer and effluent service (and service to off-Reservation users of Reservation effluent) shall be limited to the amounts necessary to offset that portion of the City's costs attributable to providing such service. For the purposes of this subparagraph, the "portion of the City's costs attributable to providing such service" shall mean, with respect to each category of water, sewer or effluent service, that percent of the City's total system-wide costs in providing the service (including, but not limited to, City costs in acquiring, constructing, operating, maintaining or expanding the facilities to provide the service) as is determined by the following computation:
Gallon Quantity of City's Total Permissible
Reservation System-Wide Charge to
Service X Costs in Reservation (or
Gallon Providing Reservation Effluent)
Quantity of Service System-Wide Users for Service

Where a City cost is attributable to more than one category of service, it may be allocated in its entirety to one category or allocated in part to more than one category, as desired by the City, but may not be allocated among categories in a manner such that more than one hundred percent of the cost has been allocated among all categories. Upon request, the City shall provide the Tribe with sufficient information to enable the Tribe to determine whether the provisions of this subparagraph are applicable and, if so, whether the cost limitations of this subparagraph have been implemented.

10.0 MISCELLANEOUS

10.1 The term of this Agreement shall be in perpetuity; provided, however, that the City's service obligations shall terminate:

A. With respect to water service, upon a conveyance of water installations and Type 2 Grandfathered Groundwater Rights pursuant to subparagraph 8.5.

B. With respect to sewer service or effluent service, upon a conveyance of sewer or effluent installations pursuant to subparagraphs 7.3 or 8.5. In the case of a partial conveyance of such installations, a termination of service obligations pursuant to this
subparagraph shall be effective only with respect to those areas of the Reservation served by the conveyed installations.

10.2 Unless expressly stated otherwise, the terms employed in this Agreement shall have the same meaning as is provided by the Settlement Agreement.

10.3 To the extent consistent with the terms of this Agreement and the Settlement Agreement, all Tribal and City laws, rules, rates, regulations and policies which are now in effect or may hereafter be adopted by the City or Tribe shall apply to this Agreement.

10.4 The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and assigns of the parties hereto.

10.5 Each party agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

10.6 This Agreement shall become effective on the effective date of the Settlement Agreement.

10.7 This Agreement shall be construed in accordance with all applicable laws of the United States of America and the State of Arizona. Nothing contained herein waives the right of the Tribe to
object to the jurisdiction of the courts of the State of Arizona to
adjudicate any disputes arising under this Agreement.

10.8 The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

10.9 This Agreement may be executed in duplicate originals, each of which shall constitute an original Agreement.

10.10 To the extent Section 38-511, Arizona Revised Statutes, is applicable to this Agreement, the City hereby represents that the persons significantly involved in the initiating, negotiating, securing, drafting and creating of this Agreement on behalf of the City are John R. Moffitt, City Attorney, and Brad Huza, Environmental Services Director, and the Tribe hereby represents that neither Mr. Moffitt nor Mr. Huza is or has been, as of the date of execution hereof, an employee or agent of or consultant to the Tribe. The Tribe also hereby covenants to not employ either Mr. Moffitt or Mr. Huza as an employee, agent or consultant for a term of at least three years following the execution hereof.

10.11 Any notice to be given hereunder shall have been properly given or made when received by the office or manager designate herein, or two (2) days after deposit with the United States Posta
Service, certified or registered mail, postage prepaid, addressed follows:

If to the Tribe:

Yavapai-Prescott Indian Tribe
530 East Merritt Avenue
Prescott, Arizona 86301
Attn: Tribal President

With a copy to:

Steptoe & Johnson
40 North Central Avenue, 24th Floor
Phoenix, Arizona 85004
Attn: David J. Bodney, Esq.

If to the City:

Prescott City Manager
P.O. Box 2059
Prescott, Arizona 86302

With copies to:

Prescott City Attorney
P.O. Box 2059
Prescott, Arizona 86302

City of Prescott
Environmental Services Director
P.O. Box 2059
Prescott, Arizona 86302

or addressed to such other address as the party to receive such notice shall have designated by written notice given as required by this paragraph.

10.12 This Agreement constitutes the entire agreement between the parties and no understandings or obligations not herein expressly set forth shall be binding upon them. This Agreement may not be modified or amended in any manner unless in writing and signed by the parties.
IN WITNESS WHEREOF, the parties hereto have executed the Agreement herein the day and year first above written.

YAVAPAI-PRESTCOTT INDIAN TRIBE

By: _____________________________
ROBERT OGO, President

CITY OF PRESCOTT, a municipal corporation

By: _____________________________
DAITON RUTKOWSKI, Mayor

Approved:

SECRETARY OF THE INTERIOR
UNITED STATES OF AMERICA

By: _____________________________
Area Director

Approved as to Form:

JOHN R. MOFFITT, City Attorney

Attest:

MARIE L. WATSON, City Clerk
EXHIBIT 1.1
TO
WATER SERVICE AGREEMENT:
PREVIOUS TRIBE-CITY AGREEMENTS

A. Water Service Agreement dated February 16, 1972, recorded in Book 739, pages 385 through 389, Yavapai County Recorder's Office, Yavapai County, Arizona, for the extension of a water main and water service for commercial and industrial purposes along approximately 5,600 feet of Yavapai-Prescott Tribal Reservation highway frontage adjacent to Highway 69.

B. Sewer Service Agreement dated March 17, 1972, for the extension of a sewer main and sewage disposal service for commercial and industrial purposes along approximately 5,600 feet of Yavapai-Prescott Tribal Reservation highway frontage adjacent to Highway 69.

C. Supplemental Water and Sewer Service Agreement, dated October 28, 1975, covering the extension of sewer and water distribution lines for commercial and industrial purposes in connection with EDA grant funds Project No. 07-01-01510 to the Yavapai-Prescott Indian Tribe (Jimullah Park).

D. Agreement for Connection to 8" City Water Main on Yavapai-Prescott Indian Reservation and Agreement to Grant Easement for Extension of Main to Highway 69 Right of Way, dated May 16, 1974, between the Yavapai-Prescott Indian Tribe, Yavapai Hills, Inc. and the City of Prescott, recorded in Book 1206, pages 307 through 317, providing for commercial and industrial water service by the City of Prescott to the Yavapai-Prescott Tribal Reservation frontage adjacent to Highway 69.

E. Agreement for Connection to 6" Water Main on Yavapai-Prescott Indian Reservation and Agreement to Grant Easement for Extension of 6" Main Across the Yavapai-Prescott Indian Reservation to the Eastern Boundary of said Reservation, dated December 31, 1974, between the Yavapai-Prescott Indian Tribe, Richard Kruger and the City of Prescott, recorded January 24, 1975, in Book 949, Official Records, pages 33 through 38, Yavapai County Recorder's Office, Yavapai County, Arizona, providing for water service by the City of Prescott to the Yavapai-Prescott Tribe through the water lines described in such agreement.
Memorandum of Agreement Between the United States of America, Yavapai-Prescott Indian Tribe and the City of Prescott, dated March 28, 1975, providing for domestic water service and sewage disposal service for residential homes on the Yavapai-Prescott Indian Reservation.

Agreement dated November 20, 1980, between the Yavapai-Prescott Indian Tribe and the City of Prescott, providing for water service and sewage disposal service for the Yavapai-Prescott Indian Reservation and an easement across that Reservation.

Memorandum of Agreement Among the United States of America and the Yavapai-Prescott Indian Tribe and the City of Prescott, Arizona, Yavapai County, Arizona pursuant to Public Law 86-121, Project Number PH 84-553, dated August, 1985, providing for the financing, construction and ownership of certain Reservation water and sewer facilities.

First Amendment to the 1980 Water and Sewer Agreement dated August 16, 1990, between the Yavapai-Prescott Indian Tribe and the City of Prescott, providing for the valuation of the easement granted in the 1980 Agreement and rental payments on that easement.

Memorandum of Agreement dated April 1993 among the Indian Health Service, the Yavapai-Prescott Indian Tribe and the City of Prescott, regarding Project #PH 93-886.
EXHIBIT 1.2
TO
WATER SERVICE AGREEMENT:
INSTRUMENTS CONCERNING
RESERVATION WATER AND SEWER LINES

A. That certain license from the United States of America to the City of Prescott, for the installation, maintenance, repair and replacement of a sewer line across a portion of the Veterans Administration Center Reservation at Whipple, Arizona, dated February, 1947.

B. A Deed of Easement from the Administrator of Veterans Affairs acting for and on behalf of the United States of America to the city of Prescott for the installation, maintenance, repair and replacement of a 12" outfall sewer line across a portion of the land of the Veterans Administration Center Reservation at Whipple, Arizona, dated May 17, 1955, recorded June 10, 1955, at Book 51, Official Records, pages 409 through 411, Yavapai County Recorder’s Office, Yavapai County, Arizona.

C. Deed of Easement from the Administrator of Veterans Affairs acting for and on behalf of the United States of America to the City of Prescott for the installation, maintenance, repair and replacement of an 8" water line across a portion of the land of the Veterans Administration Center Reservation at Whipple, Arizona, dated February 26, 1953, recorded March 19, 1953, at Book 13, pages 125 through 126, Yavapai County Recorder’s Office, Yavapai County, Arizona.

D. Grant of Easement for Right of Way from the United States of America, acting by and through Charles Pitrat, Superintendent, Truxton Canyon Agency, Bureau of Indian Affairs, Department of the Interior, the Yavapai-Prescott Community Association, the City of Prescott, Arizona, and Yavapai Hills, Inc., for a right of way for the construction, maintenance, operation and inspection of an 8" water line on the Yavapai-Prescott Reservation frontage adjacent to Highway 69, dated June 19, 1974, recorded June 26, 1974, at Book 918 of Official Records, pages 551 through 567, Yavapai County Recorder’s Office, Yavapai County, Arizona.

E. Grant of Easement for Right of Way between the United States of America, acting by and through Charles Pitrat, Superintendent, Truxton Canyon Agency, Bureau of Indian Affairs, Department of the Interior, the Yavapai-Prescott Community Association, the City of Prescott, Arizona, and Richard Kruger for an easement to the City of Prescott for
the construction, maintenance, operation and repair of a 6" water line across the Yavapai-Prescott Indian Reservation.

F. That certain application for right of way by the City of Prescott for construction of Ruth Street, dated February 14, 1966, and that certain Resolution No. 2-66 of the Yavapai-Prescott Community Association dated May 6, 1966, providing for domestic water service to the Yavapai-Prescott Indian Community through one meter, approved by Charles Pitrat on April 7, 1966, subject to the conditions set forth in Resolution No. 2-66 of the Yavapai-Prescott Community Association.

G. Grant of Easement for Right-of-Way dated December 5, 1980, between the United States of America, acting by and through James A. Barber, Superintendent, Truxton Canyon Agency, and the City of Prescott.
Caption: Intergovernmental Agreement - CVID

DO NOT REMOVE
THIS IS PART OF THE OFFICIAL DOCUMENT
INTERGOVERNMENTAL AGREEMENT

WHEREAS the City of Prescott (hereinafter referred to as "Prescott") is a municipal corporation of the State of Arizona; and

WHEREAS the Chino Valley Irrigation District (hereinafter referred to as "CVID") is a political subdivision, existing under and by virtue of Title 48, Arizona Revised Statutes; and

WHEREAS Prescott has entered into a Water Rights Settlement Agreement with the Yavapai-Prescott Indian Tribe (hereinafter referred to as the "Tribe"); and

WHEREAS CVID has entered into a Water Rights Settlement Agreement with the Yavapai-Prescott Indian Tribe, conditioned upon an additional agreement being entered into between Prescott and CVID regarding a partial replacement of water which may be diverted by the Tribe from Granite Creek; and

WHEREAS the parties hereto acknowledge that implementation of the Water Rights Settlement Agreement among the parties would be in the best interests of the parties and their constituents; and

WHEREAS the parties are empowered to enter into this Agreement pursuant to ARS § 11-952.

NOW, THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. (A) That Prescott shall replace and deliver to CVID fifty percent (50%) of any water actually diverted by the Tribe or the City from Granite Creek in accordance with the Water Rights Settlement Agreement; provided, however, that the City's obligation hereunder shall not exceed a total of two hundred seventy-five (275) acre feet per year; and further provided that the water so replaced shall be either recovered recharged water, if available, or effluent, at Prescott's option.

(B) That the foregoing water or effluent will be subject to the following terms and conditions:

i. That CVID shall provide Prescott with a minimum of two (2) business days' notice for its need for said replacement water or effluent; and

ii. That in no event shall Prescott be obligated to deliver more than 1200 gallons per minute at any one time during the months of April, May and June, nor to deliver more than 600 gallons per minute at any one time during the months of July through October; and

iii. That the obligations of Prescott as set forth
4. That in exercising the rights granted under Paragraph 1, Prescott shall also be entitled to divert the flows in Granite Creek (downstream from the confluence of Granite Creek and Willow Creek) for recharge purposes, and CVID shall not object to said diversion.

5. That notwithstanding anything to the contrary, CVID shall retain all rights to use, maintain and store within both Watson Lake and Willow Lake at their full capacities as provided by law and subject to the terms and conditions as set forth in that certain judgment entered in Salt River Valley Water Users’ Association vs. Chino Valley Irrigation District on November 22, 1971, Yavapai County Superior Court Cause Number 22088.

6. That it is expressly understood and agreed between the parties that any rights granted to Prescott pursuant to this Agreement are subject to applicable regulatory approval (including but not limited to the Department of Water Resources), and further subject to any restrictions regarding the use of said waters as more particularly set forth in that certain judgment entered in Salt River Valley Water Users’ Association v. Chino Valley Irrigation District on November 22, 1971, Yavapai County Superior Court Cause Number 22088.

7. That Prescott shall be solely responsible for any and all costs associated with the construction of any diversion lines or canals to Prescott’s recharge facility, which may be required to implement this Agreement.

8. That Prescott shall be solely responsible for any and all costs associated with the actual recharging of water pursuant to this Agreement.

9. That Prescott shall be responsible for maintenance of the CVID canal system being used by Prescott and the CVID earthen diversion dam solely during those periods when Prescott is preparing to use or making actual use of the foregoing; provided, however, that this paragraph shall not obligate Prescott to undertake any major repairs or capital improvements or repairs to CVID property or facilities.

10. That Prescott shall be responsible for obtaining any recharge or other permits which may be required by any governmental or regulatory agency to implement this Agreement.

11. That CVID shall be solely responsible for any and all power and other costs associated with recovering recharged water which may be required to implement this Agreement, but this paragraph shall not obligate CVID to undertake any major repairs or capital improvements or repairs to Prescott property or facilities.

12. That in the event that the events set forth in Paragraph 2 above occur, and CVID prohibits or otherwise intentionally frustrates or hinders Prescott’s ability to utilize water for
recharge purposes, then and in that event Prescott's obligations as set forth in Paragraph 1 above shall be reduced accordingly: for every acre foot of water not recharged, Prescott's obligation shall be reduced by one acre foot; provided, however, that in the event that Prescott is unable to divert water pursuant to this Agreement due to no fault of CVID, CVID shall not be deemed in breach of this Agreement, provided that CVID undertakes diligent efforts to complete any necessary repairs or maintenance in a timely fashion to enable Prescott the rights granted herein.

13. That Prescott shall be solely responsible for any and all costs associated with the construction, placement and maintenance of a gauging device in order to determine the offsets to which Prescott may be entitled under Paragraph 12 above; and further provided that CVID shall allow Prescott access to CVID property for construction, placement and maintenance of said gauging device.

14. That this Agreement is subject to CVID approving the Water Rights Settlement Agreement among CVID, Prescott and the Tribe, and approval of the Water Rights Settlement Agreement by the Adjudication Court.

15. That the cancellation provisions of ARS § 38-511 apply to this Agreement.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this 30 day of May, 1995.

DAITON RUTKOWSKI, Mayor

ATTEST:

MARI L WATSON
City Clerk

APPROVED
BY THE COUNCIL
City Clerk

Date 5/30/95
Res. No. 2781
PASSED, APPROVED AND ADOPTED by the Board of Directors of the Chino Valley Irrigation District this 30 day of May, 1995.

BOB DAVIS, Chairman of the Board

ATTEST:

Clerk of the Board

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the City of Prescott, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the City of Prescott.

JOHN R MOFFITT
City Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the Chino Valley Irrigation District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the District.

THELTON D. BECK
Board Attorney
RESOLUTION NO. 2781

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CHINO VALLEY IRRIGATION DISTRICT REGARDING THE RECHARGE OF EXCESS WATERS AND PARTIAL REPLACEMENT OF CVID WATER TO BE PROVIDED TO THE YAVAPAI-PRESCOTT INDIAN TRIBE, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

WHEREAS, the City of Prescott has entered into a Water Rights Settlement Agreement with the Yavapai-Prescott Indian Tribe (hereinafter referred to as the “Tribe”); and

WHEREAS, CVID has entered into a Water Rights Settlement Agreement with the Yavapai-Prescott Indian Tribe, conditioned upon an additional agreement being entered into between Prescott and CVID regarding a partial replacement of water which may be diverted by the Tribe from Granite Creek; and

WHEREAS, the parties hereto acknowledge that implementation of the Water Rights Settlement Agreement among the parties would be in the best interests of the parties and their constituents; and

WHEREAS, from time to time the Chino Valley Irrigation District has water available to it which is not needed by said District; and

WHEREAS, the City of Prescott operates a recharge facility, which may utilize a portion of the foregoing waters; and

WHEREAS, it would be to the benefit of the citizens of Prescott and the users of the Chino Valley Irrigation District for the City of Prescott to be able to utilize waters not otherwise needed for recharge purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the City of Prescott hereby approves the Intergovernmental Agreement with the Chino Valley Irrigation District for the recharge of excess waters and partial replacement of CVID water to be provided to the Yavapai-Prescott Indian Tribe, attached hereto as Exhibit “A”/
Resolution No. 2781 - continued.

SECTION 2. THAT, the Mayor and Staff are hereby authorized to execute the attached intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, APPROVED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, on this _________ day of _________ 1995.

DAITON RUTKOWSKI, Mayor

ATTEST:

MARIE L. WATSON, City Clerk

APPROVED AS TO FORM:

JOHN R. MOFFATT, City Attorney
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
YAVAPAI-PRESCOTT INDIAN TRIBE
AND THE
ARIZONA DEPARTMENT OF WATER RESOURCES
IN RE: WATER MANAGEMENT

SECTION 1: PREAMBLE AND GENERAL PROVISIONS

A. PARTIES

The parties to this Memorandum of Understanding are the Yavapai-Prescott Indian Tribe (Tribe), a federally recognized Indian tribe, and the Arizona Department of Water Resources (ADWR), a state agency established pursuant to A.R.S. Section 45-102.

B. FINDINGS


2. The management goal of the Prescott Active Management Area (AMA), is to achieve balance between annual groundwater withdrawals and natural and artificial recharge (safeyield) by the year 2025. Under the Arizona Groundwater Code of 1980, the Director of the Department of Water Resources is responsible for management of groundwater in the Prescott AMA and implementation of programs to achieve the safeyield goal.

3. The Yavapai-Prescott Indian Tribe Water Rights Settlement Act authorizes the establishment of groundwater management plan for the Reservation which, except as is necessary to be consistent with the Water Service Agreement between the Tribe and the City of Prescott, the Settlement Agreement, and the Settlement Act, will be compatible with the groundwater management plan in effect for the Prescott AMA. The Settlement Act also approves, ratifies, and confirms the Settlement Agreement.

4. Under terms of the Settlement Agreement, the Tribe is to establish a groundwater management plan for the Reservation, as set forth in the Settlement Act, and is to provide for an annual information exchange with the Arizona Department of Water Resources. Also, the Tribe is to enter into a Memorandum of Understanding with the Arizona Department of Water Resources for consultation; and the Tribe may establish a water code, consistent with the Reservation groundwater management plan, under which
the Tribe will manage, regulate, and control the water resources granted it under the Settlement Act, the Settlement Agreement, and the Water Service Agreement.

C. PURPOSE

The purpose of this Memorandum of Understanding is to fulfill relevant requirements of the Settlement Agreement and set forth the principles that will guide the parties in consultation and communication regarding groundwater management and groundwater pumping in the Prescott AMA.

SECTION 2: PRINCIPLES OF AGREEMENT

A. CONSULTATION

During development of a groundwater plan, for the Reservation, and the Tribal water code, or amendments thereto, the Tribe agrees to contact ADWR in a timely fashion to invite ADWR’s consultation and comment. ADWR agrees to meet with the Tribe, as may be requested, to explain ADWR’s management plan, conservation efforts, and regulatory program for the Prescott AMA. ADWR agrees to make available to the Tribe a copy of the ADWR hydrologic model of the Prescott AMA.

B. COMMUNICATION

The parties agree to share, upon request and without charge, any information not protected from public disclosure, regarding groundwater pumping, recharge, surface water diversions, effluent sale and re-use, and effluent discharge. The parties will meet on an annual basis to discuss the format in which information can be exchanged, and the schedule for an annual exchange of such information.

C. DESIGNATED OFFICER

All communication between the parties will, at a minimum, be addressed to the following persons:

ADWR: Director, Department of Water Resources, 500 North Third Street, Phoenix, Arizona 85004-3903

Director, Prescott Active Management Area, 2200 E. Hillsdale, Suite A, Prescott, Arizona 86301

Tribe: President, Yavapai-Prescott Indian Tribe, 530 E. Merritt Avenue, Prescott, Arizona 86301
D. **EFFECTIVE DATE AND DURATION**

This Memorandum of Understanding shall become effective on the date it is executed by both parties and will remain in effect until terminated, either unilaterally or bilaterally, in writing.

E. **AMENDMENT**

This Agreement may be amended at any time upon a mutual agreement of both parties. All amendments shall be in writing.

**SECTION 3: EXECUTION**

Yavapai-Prescott Indian Tribe

By: [Signature]  
**STAN RICE, JR, PRESIDENT**  
[Date]  

[Signature]  
**RITA P. PEARSON, DIRECTOR**  
[Date]
WAIVER AND RELEASE OF CLAIMS

(a) Except as provided in paragraph (b) herein, the Yavapai-Prescott Indian Tribe ("Tribe") on behalf of itself and its members and the Secretary of the Interior on behalf of the United States, in consideration of benefits realized under the Yavapai-Prescott Indian Tribe Water Rights Settlement Agreement dated as of ______, ___ (hereinafter referred to as the "Settlement Agreement"), and the Water Service Agreement between the Tribe and the City of Prescott (hereinafter referred to as the "Water Service Agreement"), which is incorporated into and made a part of the Settlement Agreement, and in accordance with the commitment under Subparagraph 9.1 of the Settlement Agreement and pursuant to the authorization granted in Section 10(b) of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994, hereby waives and releases:

(1) Any and all past and present claims of water rights or injuries to water rights (including water rights in groundwater, surface water and effluent) for lands within the Tribe's Reservation, from time immemorial to the date of execution of this Waiver and Release of Claims, which the Tribe and/or its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation or municipal corporation, arising under the laws of the United States or the State of Arizona;
(2) Any and all future claims of rights to water (including water rights in groundwater, surface water and effluent) for lands within the Tribe's Reservation, from and after the date of execution of this Waiver and Release of Claims, which the Tribe and/or its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation or municipal corporation, arising under the laws of the United States or the State of Arizona; and

(3) Any and all past, present and future claims of water rights or injuries to water rights (including water rights in groundwater, surface water and effluent) for lands outside of the exterior boundaries of the Tribe's Reservation for claims based upon aboriginal occupancy, which the Tribe and/or its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation or municipal corporation, arising under the laws of the United States or the State of Arizona.

Nothing herein shall prevent the Tribe from participating with other entities in further activities to augment the water supply available to the Prescott Active Management Area and Granite Creek watershed, or shall prevent the Tribe, its members and the United States on their behalf from supporting any claim of any party to the Settlement Agreement filed in the Gila River Adjudication from which the Tribe's water rights under the Settlement Agreement are satisfied. Nothing
herein shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the Tribe's Reservation of any member of the Tribe; provided, however, that any water rights determined to exist for such allotments shall not be exercised for use on the Tribe's Reservation.

(b) Notwithstanding the execution by the Tribe of the Waiver and Release of Claims herein, the Tribe, its members, and the United States on their behalf shall retain the right to assert the following claims for lands within the Tribe's Reservation:

(1) Claims for protection and/or enforcement of the Tribe's surface water, groundwater and effluent rights and entitlements as provided for in the Settlement Agreement and Water Service Agreement under the continuing jurisdiction of the Court in the Gila River Adjudication or otherwise.

(2) Claims for the breach or enforcement of the terms of the Settlement Agreement or rights or entitlements recognized in the Settlement Agreement, or for the breach or enforcement of the Water Service Agreement, or rights or entitlements recognized the Water Service Agreement, including claims for future injuries to such rights and entitlements.

(c) Except as provided in Paragraph (2) of this Waiver and Release of Claims, the United States shall not assert any claim against the State of Arizona and any agency or political subdivision thereof or any other person, corporation, or municipal corporation,
in its own right or on behalf of the Tribe and its members based upor
(1) water rights or injuries to water rights of the Tribe and its
members; or (2) water rights or injuries to water rights held by the
United States on behalf of the Tribe and its members.

YAVAPAI-PRESCOTT INDIAN TRIBE

By: ____________________________
President

THE UNITED STATES OF AMERICA

By: ____________________________
Secretary of the Interior

By: ____________________________
Attorney General of the United States
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

IN THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN
THE GILA RIVER SYSTEM AND
SOURCE

STIPULATION

(Assigned to the Honorable
Susan R. Bolton)

THIS STIPULATION, which shall become effective on
______ , 1995, is entered into among the United States of
America, the Yavapai-Prescott Indian Tribe, the City of Prescott and
the Chino Valley Irrigation District.

WHEREAS, the representatives of the United States of
America, the State of Arizona, the Yavapai-Prescott Indian Tribe, the
City of Prescott and the Chino Valley Irrigation District have agreed
to settle the water rights of the Yavapai-Prescott Indian Tribe and
its members, and to resolve certain pending litigation on water
rights; and
WHEREAS, the Yavapai-Prescott Indian Tribe Water Rights Settlement Agreement (the "Settlement Agreement") (attached hereto as Exhibit A), has been ratified and confirmed by the United States Congress, and

WHEREAS, This Stipulation and the Judgment entered pursuant hereto are intended to ratify and confirm the Settlement Agreement;

NOW, THEREFORE, in consideration of the premises set forth herein, the parties hereto stipulate as follows:

The parties hereby stipulate to entry of judgment in the form attached hereto.

If for any reason this Court fails to approve this Stipulation, this Stipulation shall not bind any of the undersigned parties. If the Court approves this Stipulation and the judgment of this Court is reversed on appeal and no further appeal may be taken, the rights and obligations of the parties shall be as stated in the Settlement Agreement and the Water Service Agreement.

Neither this Stipulation nor the Judgment entered pursuant hereto shall be construed to supersede or otherwise alter any term of the Settlement Agreement. The Settlement Agreement is intended to be fully enforceable among the undersigned parties in pursuing their claims in these proceedings.

Upon approval of this Stipulation, the Court shall direct the entry of final judgment in the form attached hereto because there is no just reason for delay and the partial judgment is properly final judgment pursuant to Rule 54(b), Arizona Rules of Civil Procedure.
IN WITNESS WHEREOF, the parties have executed this Stipulation as of the day and year first above written.

THE UNITED STATES OF AMERICA

By: __________________________

YAVAPAI-PRESCOTT INDIAN TRIBE

By: __________________________

CITY OF PRESCOTT

By: __________________________

CHINO VALLEY IRRIGATION DISTRICT

By: __________________________
The Yavapai-Prescott Indian Tribe (the "Tribe"), the United States of America, the State of Arizona, the City of Prescott and the Chino Valley Irrigation District ("CVID") having reached a Settlement Agreement approved, ratified and confirmed by the United States Congress, see Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994, Pub. L. 103-434, 108 Stat. 4526 (1994), and the parties to the claims at issue having stipulated to entry of this Judgment, this Court having reviewed and considered the substance of said Stipulation and Settlement Agreement, and other parties to this action having been given an opportunity to be heard on this matter,

IT IS ORDERED AND ADJUDGED:

The Tribe's rights and entitlements to water are as follows:
1. The Tribe shall have the perpetual right to divert, store and use a portion of CVID's entitlement to Granite Creek surface water as provided in the Settlement Agreement.

CVID's right or entitlement to Granite Creek surface water is defined as that right or entitlement to be adjudicated in this proceeding and based on the various water claims identified in the Settlement Agreement.

Each year, the Tribe shall be entitled to store, divert and use: (a) as its Minimum Annual Entitlement, fifty (50) percent of the flow of Granite Creek, as measured at the State Highway 89 bridge across Granite Creek adjacent to the Reservation, until it has diverted five hundred and fifty (550) AFA; provided, however, that if the existing and customary beneficial uses of surface water by CVID pursuant to the rights to Granite Creek surface water are reduced to an annual entitlement of less than one thousand one hundred (1,100) AFA by a determination of the Court in the Gila River Adjudication which is not subject to further appeal, then the Tribe's Minimum Annual Entitlement shall be reduced by an amount equal to one-half the difference between one thousand one hundred (1,100) AFA and CVID's reduced entitlement; and (b) as its Maximum Annual Entitlement, an additional ten (10) percent of that portion of the flow of Granite Creek which exceeds 1100 AFA, as measured at the State Highway 89 bridge across Granite Creek adjacent to the Reservation, up to a total combined diversion of one thousand (1,000) AFA; provided, however, that if CVID's existing and customary beneficial uses of Granite Creek surface water are reduced by virtue of a determination by the Court in the Gila River
Adjudication, which is not subject to further appeal, that one or more of such rights is or are invalid, the Tribe’s total Maximum Annual Entitlement pursuant to this Subparagraph shall be reduced by the same percentage as the percentage reduction in CVID’s use rights.

The priority of storage, diversion and use of surface water by the Tribe shall be the same as the priorities determined by the confirmation of CVID’s right to Granite Creek water in the Gila River Adjudication. The Tribe’s annual entitlement to Granite Creek surface water shall not be carried over from year to year; provided, however, that: (i) any water stored by the Tribe during a given year may be left in storage and/or consumptively used by the Tribe in subsequent years without such storage and/or use being counted against the Tribe’s annual entitlements for such subsequent years; (ii) if the flow of Granite Creek is insufficient in any year to permit the Tribe and CVID each to divert five hundred and fifty (550) AFA, then an amount equal to the difference between the amount the Tribe actually diverts in that year and its five hundred and fifty (550) AFA Minimum Annual Entitlement shall be carried forward from year to year (but not to exceed four years) as a Deficiency until the Tribe is able to recover such Deficiency; and (iii) the Tribe’s total Maximum Annual Entitlement shall be increased in any given year by an amount equal to the sum of the Deficiencies carried forward from the preceding four years. If the Tribe has the right to divert, and does divert, an amount in excess of one thousand (1,000) AFA to recover its accumulated Deficiencies, then the Tribe’s accumulated Deficiencies shall be reduced by an amount equal to such excess. All such excess
diversions shall be applied to the earliest deficiency still being
carried forward. Deficiencies older than four years shall lapse.

2. In addition to Tribe's right to surface water from
Granite Creek, the Tribe shall have the permanent right to withdraw
all groundwater beneath the Reservation for on-Reservation beneficial
use in accordance with any groundwater management plan which may be
developed by the Tribe pursuant to Section 11(c) of the Act.

3. In addition to its other entitlements to water, the
Tribe shall have the right to use on the Reservation or sell to off-
Reservation users, all effluent generated on the Reservation.

4. In addition to the entitlements to water established
by this Judgment, the Tribe has contractual rights to receive water
service from other sources. This Judgment in no way affects any
contractual rights that the Tribe may have (or may acquire in the
future) to receive additional water pursuant to contract.

The Court herein determines that there is no just reason for
delay and this partial judgment is properly deemed final pursuant to
Ariz. R. Civ. P. 54(b).

Wherefore, the Court directs the entry of judgment, pursuant
to the provisions of Arizona Rules of Civil Procedure 54(b).

Dated at Phoenix, Arizona, this ___ day of __________, 199__.

Judge, Superior Court