Attorney General
1275 WEST WASHINGTON
Phoenix, Arizona 85007
Robert K. Corbin

May 21, 1990

Sharon G. Womack, Director
Department of Library, Archives and
Public Records
Records Management Division
1919 W. Jefferson
Phoenix, Arizona 85009

Re: I90-044 (R89-067)

Dear Ms. Womack:

You have asked whether the Salt River Project (S.R.P.) must comply with certain statutes governing the preservation and public access to public records. We conclude that because S.R.P. is a political subdivision and a special taxing district of this state, it must comply with such statutes.

You specifically asked whether S.R.P. must comply with A.R.S. §§ 41-1343, -1346, -1347, -1348, -1349, -1350, and -1351. These statutes prescribe duties of the Department of Library, Archives and Public Records and the procedures for preservation management and disposal of records of "any public office of the State of Arizona or any county, city, municipality, district, political subdivision thereof . . . ." A.R.S. § 41-1343. For purposes of these statutes, "records" are defined as:

> all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics . . . . made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved

> or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein.

A.R.S. § 41-1350 (emphasis supplied).

You also asked whether SRP must comply with A.R.S. §§ 39-101, -103, -121.01, -121.02, -121.03. A.R.S. §§ 39-101 and -103 provide that the storage, quality and size of public records be according to standards of the Department of Library, Archives and Records. A.R.S. §§ 39-121.01, -121.02, and -121.03 provide for the public access to and copying of such public records. Specifically, A.R.S. § 39-121.01 provides, in pertinent part:

> A. In this article, unless the context otherwise requires:
>
> 1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.
>
> 2. "Public body" means the state, any county, city, town, school district, political subdivision or tax-supported district in the state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by funds from the state or any political subdivision thereof, or expending funds provided by the state or any political subdivision thereof.
>
> B. All officers and public bodies shall maintain all records reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by funds from the state or any political subdivision thereof.

(Emphasis supplied.) A.R.S. §§ 39-121.01(A) and (B) define the matters to which the public right of inspection applies. Carlson v. Pima County, 141 Ariz. 487, 489, 687 P.2d 1242, 1244 (1984).

You asked whether S.R.P. is subject to A.R.S. § 38-421, prescribing criminal penalties for any public records custodian who unlawfully destroys or alters records deposited "in any public office," and A.R.S. § 13-2407, prescribing criminal penalties for tampering with a public record which is "kept by any governmental office or agency or required by law to be kept by others for the information of the government."

The Legislature enacted these statutes to preserve the documents and records which may serve as a memorial of the activities of all governmental entities and to make such records available for public reference. See Carlson v. Pima County, 141 Ariz. at 491, 687 P.2d at 1244; Mathews v. Pyle, 75 Ariz. 76, 78-79, 251 P.2d 893, 895 (1952). Consequently, SRP is subject to the above statutes if it is a governmental agency which makes or receives records "in pursuance of law or in connection with the transaction of public business . . .," A.R.S. § 41-1350; if it maintains "records reasonably necessary or appropriate to maintain an accurate knowledge of [its] official activities" or of any activities supported by public funds, A.R.S. § 39-121.01(B); or if it is a political subdivision or tax-supported district of the state, A.R.S. § 39-121.01(A)(2).

The S.R.P. is organized pursuant to A.R.S. §§ 48-2301 to -2475, for the following general purposes:

> When five or more holders of title or evidence of title to agricultural lands which have at any time been recognized as within the exterior boundaries of a United States reclamation project and which are susceptible of irrigation by the same general system of irrigation works, desire to provide for the improvement of such lands, they may propose the organization of an agricultural improvement district under the provisions of this chapter . . . .

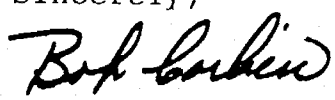
A.R.S. § 48-2303(A).

The Salt River Project Agricultural Improvement and Power District is an agricultural improvement district, and, as such, is a political subdivision of the state. Ariz. Const. art. XIII, § 7; Local 266, I.B.E.W. v. Salt River Project Agricultural Improvement and Power District, 78 Ariz. 30, 34-35, 275 P.2d 393, 396 (1954). It is created pursuant to law, A.R.S. §§ 48-2301 to -2475, and is a "special taxing district" under Title 48 of the Arizona Revised Statutes, Laws 1985 (1st Reg. Sess.) Ch. 190, §§ 1, 18, 264. Its purposes and powers are prescribed by law, A.R.S. §§ 48-2303 and -2335 to -2342, and it is "a public, political, taxing subdivision of the state,"

A.R.S. § 48-2302.[1] We note that agricultural improvement districts such as the S.R.P. are considered private corporations under certain circumstances. See, e.g., Local 266, I.B.E.W. However, the Legislature has determined that the public records and archive statutes shall apply to any records of their activities as political subdivisions and special taxing districts of the state.

In summary, because the above public records statutes expressly apply to political subdivisions, tax-supported districts, and governmental agencies, we are required to apply the statutory language according to its plain meaning. State ex rel. Corbin v. Pickrell, 136 Ariz. 589, 592, 667 P.2d 1304, 1309 (1983). Therefore, S.R.P. must comply with the above statutes relating to public records and archives.[2]

Sincerely,



BOB CORBIN
Attorney General

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[1] The history and formation of the S.R.P. is contained in Ullmann v. Wren, 97 Ariz. 366, 373-379, 401 P.2d 113, 117-122 (1965).

[2] We also note that state law requires agricultural districts to make available for public inspection minutes and records of their board of directors and records pertaining to proposed changes in their standards electric rate charges. A.R.S. §§ 48-2333 and -2334(C).