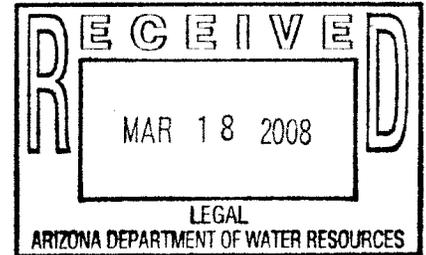


ARIZONA DEPARTMENT OF WATER RESOURCES

BEFORE THE DIRECTOR

IN THE MATTER OF THE)
MODIFICATION OF CHAPTER 5 OF)
THE MANAGEMENT PLAN FOR THE)
PHOENIX ACTIVE MANAGEMENT)
AREA FOR THE THIRD)
MANAGEMENT PERIOD FOR THE)
PURPOSE OF ADDING A MODIFIED)
NON-PER CAPITA CONSERVATION)
PROGRAM)

ORIGINAL



THIRD MANAGEMENT PLAN MODIFICATION HEARING
PHOENIX ACTIVE MANAGEMENT AREA

Phoenix, Arizona
March 4, 2008
2:00 p.m.

PREPARED FOR:
AZ DEP. WATER RESOURCES
(Original)

PREPARED BY:
MS. TANIS EASTRIDGE-THORPE
Court Reporter

DRIVER AND NIX
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APPEARANCES

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NAME

AFFILIATION

MR. JOE SINGLETON

ADWR

MS. KAREN YOUNG

TOG

MR. STEVE OLSON

AMWUA

MS. SANDRA RODE

CITY OF GOODYEAR

MS. CHRISTINA KLIEN

CITY OF SCOTTSDALE

MS. SANDRA HOUSE

ADWR

BEFORE: MR. SCOTT MILLER, PHOENIX AMA
ACTING AS HEARING OFFICER

1 Phoenix, Arizona
2 March 4, 2008
3 2:00 p.m.

4 P R O C E E D I N G S

5
6 MR. SCOTT MILLER: My name is Scott Miller.
7 I am the AMA Area Director for the Phoenix Active
8 Management Area, and I'll be the hearing officer at this
9 hearing. With me is Joe Singleton, Assistant Area
10 Director for the Pinal Active Management Area. Joe has
11 been involved in the development of the imposed
12 modifications and he will give a brief description of the
13 modifications after my introductory remarks.

14 We have a court reporter here today to take
15 down what is being said. It is important for speakers to
16 please speak up so that the court reporter can accurately
17 record your comments. If anyone has difficulty hearing me
18 or a speaker, please let me know.

19 If you haven't already done so already,
20 please sign the sign-in sheet on the table near the
21 entrance. There are also speaker cards on the table. If
22 you would like to speak today, please fill out a speaker
23 card.

24 Before turning things over to Joe to
25 describe the proposed modifications, I'd like to point out

1 that the modifications relate to the conservation
2 requirements for most, but not all, large municipal
3 providers. The modifications do not affect small
4 municipal providers, which are providers that serve less
5 than 250 acre-feet of water per year per municipal use.
6 Nor do they affect large untreated water providers or
7 institutional providers.

8 I'd like to next point out that the purpose
9 of this hearing is to receive oral or written comments on
10 the proposed modification. Only comments and evidence for
11 or against the proposed modification will be accepted at
12 this hearing. No comments or evidence will be received
13 regarding any other issues relating to the Third
14 Management Plan. If anybody has any questions or comments
15 on issues or programs that are outside the scope of this
16 hearing, they may contact me after the hearing.

17 The hearing will be conducted in an informal
18 manner. As I mentioned in the beginning, a court reporter
19 is recording everything being said. A copy of the
20 transcript of the hearing will be available for review at
21 the Department's offices and will also be posted on the
22 Department's website when it is available. At the
23 conclusion of the hearing, I will be accepting any written
24 comments or documentary evidence that anyone may wish to
25 file with the Department regarding the proposed

1 modifications.

2 The Department will also accept written
3 comments on the proposed modification until 5 o'clock
4 tomorrow, March 5th. Written comments submitted after the
5 hearing should be submitted to the Department's docket
6 supervisor, Kathy Donoghue. Ms. Donoghue's fax number is
7 602-771-8683. Her e-mail address kadonoghue@azwater.gov.
8 I will repeat the fax number and e-mail address after the
9 completion of oral comments.

10 I would now like to go over the process that
11 will be followed after the close of the hearing record,
12 which is tomorrow at 5 o'clock p.m. Within 30 days after
13 the close of the hearing record, the Director will make
14 and file in the Department a written summary and findings
15 with respect to the comments and evidence received prior
16 to the close of the record, including any written comments
17 or evidence received before 5 o'clock p.m.

18 If in the findings, the Director decides to
19 adopt the modifications, the Director will make and file
20 in the Department an order adopting the modifications with
21 any changes made in response to the comments and evidence
22 received before the close of the hearing record. Notice
23 of the order will be sent to all persons who signed the
24 attendance sheet today and to all persons who submitted
25 comments or evidence prior to the close of the record.

1 The Director will also publish a summary of
2 the modifications, findings and order of adoption once a
3 week for two consecutive week in a newspaper of general
4 circulation within the Phoenix Active Management Area.
5 Any person may file a request for rehearing or review of
6 the order of adoption within 30 days after the second
7 publication of the notice. The last day for filing
8 requests for rehearing or review will be identified in
9 both the mailed and published notices of the order of
10 adoption. If no one files a timely request for rehearing
11 or review, the modifications adopted by the order of
12 adoption will become final.

13 If a timely request for rehearing or review
14 is filed, the Director will have 60 days after receiving
15 the request to issue a decision on the request. The
16 Director may grant a rehearing, grant review without a
17 rehearing, or deny the request. Following the Director's
18 decision on request for rehearing or review, the Director
19 will issue a final order of adoption adopting the
20 modifications with any changes made in response to request
21 for rehearing or review. Notice of the final order of
22 adoption will be published in a newspaper of general
23 circulation within the AMA once a week for two consecutive
24 weeks. The modification will become final upon the second
25 publication.

1 Regardless of whether anyone files a request
2 for rehearing or review, any person may seek judicial
3 review of the Director's decision to adopt the
4 modifications as provided in the Arizona Revised Statutes
5 45-114, subsection C.

6 Within 30 days after the modification has
7 becomes final, the Department will mail notice of the
8 modifications to all municipal providers that will be
9 affected by the modification. A provider that receives
10 the notice may request an administrative review of the new
11 requirements within 90 days after receiving the notice, as
12 provided in Arizona Revised Statute §45-575, subsection A.
13 If the provider demonstrates that it would unreasonable to
14 require the provider to comply with the new requirement
15 because of the provider's unique circumstances, the
16 director may modify the requirements.

17 A provider may also request additional time
18 to come into compliance with the new requirements by
19 filing a variance from the requirement within 90 days
20 after receiving the notice, as provided in Arizona Revised
21 Statute §35-574. The Director may allow the provider up
22 to five additional years to come into compliance with the
23 requirement if the provider demonstrates that compelling
24 economic circumstances preventing it from complying by the
25 date set forth in the requirement.

1 At the present time, the Department expects
2 modifications to be final by the middle of this year.

3 I will now turn the hearing over to Joe
4 Singleton, who will describe the proposed modifications in
5 greater detail.

6 MR. JOE SINGLETON: The Third Management
7 Plan was adopted by the director of water resources in
8 December of 1999. It contains conservation requirements
9 for agricultural, municipal and industrial ground water
10 users in the Phoenix AMA. The requirements became
11 effective in 2002, and will remain in effect until the
12 Fourth Management Plan is adopted and becomes effective
13 some time after 2010.

14 The Third Management Plan currently requires
15 most large municipal providers, providers serving more
16 than 250 acre-feet of water per year for municipal uses to
17 be regulated under the total gallons per capita per day
18 for total GPCD program. The total GPCD program limits the
19 total amount of water a large provider may deliver during
20 a year to a volume base on its service area population and
21 total GPCD requirement.

22 The plan also provides that a large
23 municipal provider regulated under the total GPCD program
24 may apply to be regulated under one of two alternative
25 programs. One of those programs is the Non-Per Capita

1 Conservation Program which requires a large provider to
2 implement specific conservation measures within its
3 service area and to comply with a stringent ground water
4 cap.

5 But the provider is not required to comply
6 with the GPCD requirement. Last year, the Legislature
7 enacted into law Senate Bill 1557, which requires the
8 director of water resources to modify the Non-Per Capita
9 Conservation Program so that it requires a large municipal
10 provider regulated under the program implement a public
11 education program, a metering program and one or more
12 additional water conversation measures to be selected in a
13 list of measures adopted in the plan.

14 The Director is required to design the
15 modified Non-Per Capita Conservation Program to achieve
16 water use efficiency in the service areas of municipal
17 providers regulated under the program equivalent to the
18 water use efficiency assumed by the Director in
19 establishing the total GPCD requirement for those
20 providers. The legislation requires all large municipal
21 water providers that are not designate as having an
22 assured water supply and that cannot qualify as a large
23 untreated water provider to submit a provider profile to
24 the Director by July 1st, 2009, and to be regulated under
25 the modified Non-Per Capita Conservation Program,

1 beginning January 1, 2010, or the date that the Director
2 approves the provider's profile, whichever is later.

3 The large municipal providers designated as
4 having an assured water supply are not required to be
5 regulated under the modified Non-Per Capita Conservation
6 Program. Those providers will continue to be regulated
7 under the conservation program they were regulated under
8 as of January 1st, 2008. But they may elect to be
9 regulated under the modified Non-Per Capita Conservation
10 Program if they wish to be regulated under that program.

11 The proposed modifications promulgated by
12 the Director are for the purpose of implementing Senate
13 Bill 1557. These modifications seek to change the
14 Municipal Conservation Program chapter to include a
15 modified Non-Per Capita Conservation Program for large
16 municipal providers.

17 The modified Non-Per Capita Conservation
18 Program was developed in concert with stakeholders after
19 an extensive public process. The chapter will also be
20 amended to require all large municipal water providers
21 without a designation of assured water supply except those
22 regulated as large untreated providers to be regulated
23 under the modified Non-Per Capita Conservation Program.

24 Providers regulated under the Institutional
25 Provider Program will also be allowed to continue to be

1 regulated under the existing provisions of that program.

2 Providers with a designation of assured
3 water supply will be able to choose between the current
4 regulatory structure and the new program. The modified
5 Non-Per Capita Conservation Program is a performance-based
6 program. Program requirements call for the submittal of
7 the provider profile and the Annual Conservation Efforts
8 Report, the provider's current water rate structure, and
9 implementing a public water conservation education
10 program.

11 The program also requires a provider to
12 implement an additional number of measures based on the
13 number of service connections in the system from a list of
14 measures that is included within the program.

15 Systems with up to 5,000 connections must
16 implement at least one additional measure. Those with
17 5,001 to 30,000 connections must implement five additional
18 measures, while those systems with more than 30,000
19 connections must implement at least ten measures in
20 addition to the public education program.

21 For existing large municipal water providers
22 that are already implementing one or more water
23 conservation practices that are on the list of water
24 conservation measures, those measures will count towards
25 the total minimum program requirements.

1 The provider profile must describe the water
2 use patterns and the characteristics of the provider's
3 service area. Additionally, the profile must contain a
4 description of what conservation measures are being
5 implemented, what additional measures, if any, will be
6 implemented to comply with the program requirements and an
7 explanation as to how those water conservation measures
8 are relevant to the provider's existing service area
9 characteristics for water use patterns.

10 ADWR will review and approve the provider
11 profiles. The Annual Conservation Efforts Report will
12 contain a description of conservation measures implemented
13 during the year and an assessment of the outcome of
14 implementing those measures. The report must also detail
15 any additional measures that were substituted for previous
16 measures during the year and an explanation on how those
17 new measures are relevant to the service area
18 characteristics for water use patterns of the service
19 area. The report must also include a plan for
20 implementing conservation measures that the provider is
21 using for the current year.

22 MR. SCOTT MILLER: Thank you, Joe. No one has
23 filled out a card indicating that they would like to
24 present comments on the proposed modifications. Is there
25 anyone here who wishes to speak on this proposed

1 modification?

2 The first speaker card is from Steve Olsen.

3 MR. STEVE OLSEN: My name is Steve Olsen. I am
4 here representing the Arizona Municipal Water Uses
5 Association. And one of the concerns that we had through
6 the adoption of the legislation authorizing this
7 modification of the Management Plan is a concern making
8 sure that we have a public committee, as identified in --
9 and I hope I can find this -- for the review of modified
10 Non-Per Capita Conservation Program 5.7.1.5.7. And that
11 section basically acknowledges that the legislation
12 authorizes the Director to establish an advisory
13 committee.

14 We believe it would be appropriate at this time
15 to recognize in the amendment to the Management Plan the
16 creation of that advisory committee as relating to the
17 Non-Per Capita Conservation Program.

18 With that in mind, we recognize how important it
19 is to get good communication between the Department and
20 the water users that are going to be impacted by this
21 program. This would be part of our ongoing commitment
22 reflected by these amendments to having a functional and
23 effective conservation program and Non-Per Capita Program.
24 Thank you.

25 MR. SCOTT MILLER: Okay. Is there anyone else

1 who would like to speak?

2 Let the record reflect that no one else wishes to
3 speak. As I mentioned earlier, written comments on the
4 proposed rules may be submitted until 5 o'clock p.m.
5 tomorrow, March 5th, 2008. If you would like to submit
6 written comments after the hearing, please fax or e-mail
7 them to Kathy Donoghue, the Department's docket
8 supervisor. Ms. Donoghue's fax number is 602-771-8683.
9 And her e-mail address is kadonoghue@azwater.gov.

10 This public hearing is now adjourned. Thank you
11 very much.

12 (2:20 p.m.)

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1 STATE OF ARIZONA.)
) ss.
2 COUNTY OF MARICOPA)

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I HEREBY CERTIFY that the foregoing was taken before me, TANIS EASTRIDGE; that all proceedings had upon the taking of said hearing were recorded and taken down by me on a steno machine as backup and thereafter reduced to writing by me; and that the foregoing 15 pages contain a full, true, and correct transcript of said record, all done to the best of my skill and ability.

WITNESS my hand this 15th day of March, 2008.

Tanis Eastridge Thorpe
TANIS EASTRIDGE-THORPE
Court Reporter