

## APACHE JUNCTION WATER UTILITIES CFD

---

300 East Superstition Boulevard, Apache Junction, Arizona 85119

Mailing Address: P.O. Box 4768, Apache Junction, Arizona 85178-0014

(480) 982-6030

Fax: (480) 288-6623

November 01, 2012

Ms. Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 N Central Avenue, Second Floor  
Phoenix AZ 85012

RE: Non-Indian Agricultural Priority Central Arizona Project Water  
Reallocation Process and Evaluation Criteria

Apache Junction Water Utilities Community Facilities District (WUCFD) respectfully submits the following written public comments regarding the Arizona Department of Water Resources Non-Indian Agricultural Priority Central Arizona Project Water Reallocation process.

### About WUCFD

WUCFD is a special district organized under Arizona Revised Statutes §§ 48-701 *et seq.*, and an existing municipal water provider. ADWR's Designation of Assured Water Supply shows WUCFD has the ability to supply water until 2025 using current resources and infrastructure, assuming the construction of a Central Arizona Project (CAP) Water Treatment Plant.

Apache Junction has been identified as an area of limited physical groundwater availability per ADWR's groundwater model, and by the East Valley Water Forum. During ADWR's 2010 Phoenix AMA Re-Designation process, Apache Junction was projected to develop dry cells (areas without groundwater due to pumping) even with 80% direct use of surface water. Dry cells are shown on State Lands within the anticipated Sun Corridor mega-region. Challenges to groundwater availability are also combined with water quality issues, currently related to arsenic.

WUCFD has been proactively working towards changing from a groundwater system to one utilizing renewable resources by delivering CAP water, acquiring a storage permit to store CAP water, and purchasing Long Term Storage Credits (LTSC) from effluent recharged by the local sewer district. WUCFD is also pursuing acquisition of leased Indian Priority Water. WUCFD welcomes the opportunity to acquire additional renewable supplies. Yet the challenge for WUCFD is one of intergenerational equity in terms of financing water for future growth at the expense of our current customer base.

### WUCFD's Interest in NIA Priority CAP Water

WUCFD has a CAP allocation that is sufficient to serve its existing service area through 2036 (Water Master Plan, NCS, 2010), depending on growth. However, Arizona State Land Department (ASLD) has contracted with a developer to Master Plan a 7,700 acre project within the City of Apache

Junction and WUCFD's planned service area; which will result in an additional need for renewable water supplies. NIA Priority Water can be used to supplement water service for this ASLD Project (Portalis). During times when NIA Priority water is not available, WUCFD could recover LTSC or deliver other renewable supplies.

By virtue of the reallocation process, ADWR has the ability to help solve the problem with development of State Lands which have no water rights, and are located in areas of limited physical availability to groundwater, by reallocating NIA Priority Water to existing municipal providers that serve or are planning to serve those lands.

WUCFD's comments regarding Pricing Methodology

In CAP's NIA Reallocation Pricing Methodology, the 9(d) Debt Component and Back Capital Charges Component seem justified. The assessment of a \$1,000 per acre foot supply availability charge does not. Since in some years NIA water will only be partially available and in some years not available at all, the proposed cost of the non-firmed water does not appear proportional to the limited benefit of an unreliable resource. A more equitable rate would exclude the system availability charge. It is understood and reiterated by Central Arizona Water Conservation District (CAWCD) that the supply availability charge does not "firm the NIA priority supply during shortages". Therefore, an availability charge is not justified.

WUCFD's comments regarding Reallocation and State Land benefit

WUCFD understands requested volumes for NIA Priority Water may not be fully met during the reallocation process. Also that ADWR will take the approach of partially alleviating Demand and Supply imbalances for recipients of the reallocated water. Nonetheless, ADWR has an opportunity to meet their goal of providing an additional source of water to an area with limited physical availability to groundwater while enhancing the value of State Land. This may be accomplished by making the volume of NIA Priority Water needed to supply the Master Planned Portalis ASLD Project available to WUCFD, the existing designated municipal provider planning to serve the project.

If you have any questions, please do not hesitate to contact me at 480.474.8522. Thank you.

Sincerely,



Frank L. Blanco, CPM  
Water District Director

cc: George Hoffman, District Manager  
Bryant Powell, Assistant City Manager  
Giao Pham, Interim Public Works Director  
Brad Huza, Water System Superintendent  
Joel Stern, District Attorney

# ARIZONA MINING ASSOCIATION

916 W. Adams, Suite 2

Phoenix, AZ 85007

(602) 266-4416; FAX (602) 357-3381

---

November 5, 2012

Sandra Fabritz-Whitney, Director  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012-2105

Re: Non-Indian Agricultural Priority Central Arizona Project  
Water Reallocation--Proposed Process and Evaluation Criteria

Dear Director Fabritz-Whitney:

On behalf of the Arizona Mining Association ("Association"), we appreciate the opportunity to provide comments on the proposed process and evaluation criteria for the Department's reallocation of Non-Indian Agricultural ("NIA") Priority Central Arizona Project ("CAP") water.

The Association is a non-profit business league comprised of entities engaged in mining and mineral processing throughout Arizona. The Association's members include (but are not limited to): ASARCO LLC, BHP Copper Inc., Carlota Copper Company, Freeport-McMoRan Copper & Gold Inc., Resolution Copper Company and Rosemont Copper Company. The Association acquires and disseminates scientific and business information essential to sound public policies affecting the mining industry in Arizona. In addition, where appropriate, the Association also advocates on behalf of its members and participates in the development of statutes, regulations and policies affecting mining in Arizona.

As an initial point, many of our members are interested in securing an allocation and may be providing their own more detailed comments. From an industry-wide perspective, however, we wanted to point out two aspects of the reallocation that we believe merit further consideration on the Department's part:

First, we believe that the industrial sector's share of the NIA pool should be increased. Projections are that the reliability of NIA pool water supplies is fairly firm in the near future, but becomes increasingly vulnerable to shortage in the next 30+ years. This makes NIA pool water supplies uniquely suitable to the industrial sector, since it does not have 100-year assured water supply requirements as does the municipal sector. Industrial users typically have groundwater as its supply of last resort for new demands and would more quickly utilize NIA pool water than would the municipal sector, which is currently in a low-growth economic cycle.

Sandra Fabritz-Whitney

November 5, 2012

Page 2

Second, industrial uses, particularly mining, have been a driver for growth in the State and represent the biggest “bang for the buck” in terms of revitalization of the State’s economy. Industrial use of NIA pool water will have an immediate economic impact by supporting industrial operations (mining and power) that produce immediate benefits (tax revenue and power generation) for the State. This point becomes magnified when you consider that NIA pool water is less suited for long-term water planning purposes. Industry users will have the financial capacity to place this water into use most efficiently in a short-term planning horizon with maximum economic efficiency for the State.

We appreciate the opportunity to comment and look forward to continued participation in the process.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis McAllister". The signature is fluid and cursive, with a long horizontal stroke at the end.

Francis McAllister  
Chairman  
Arizona Mining Association

cc: Tom Buschatske, ADWR  
Michelle Moreno, ADWR

*Founded in 1965, the Arizona Mining Association is a non-profit business league comprised of entities engaged in mine exploration, development, and production in Arizona. The AMA represents 24 mining related companies and 11 consulting and legal firms that have operations or offices in the State of Arizona. In 2010, AMA copper member companies produced approximately 63% of the nation’s newly-mined copper, employed approximately 10,400 workers and had an estimated direct and indirect impact of \$12.1 billion on the Arizona economy. In addition, AMA members are also engaged in the mining of molybdenum, coal, uranium, gold, and other valuable minerals, as well as providing legal and consulting work that significantly contributes to the Arizona economy.*

November 8, 2012

*Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)*

Ms. Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**RE: Reallocation of Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP) Water—Proposed Process and Evaluation Criteria dated October 2012 (Process and Criteria)**

Dear Ms. Ikeya:

The Arizona Municipal Water Users Association (AMWUA) is a non-profit organization that protects our members' ability to provide assured, safe, and sustainable water supplies to their communities. We advocate responsible stewardship of Arizona's water supplies for future generations. AMWUA's members are the Cities of Avondale, Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale and Tempe, and the Town of Gilbert. Our members collectively provide water to over 3.2 million people, which is over fifty percent of the state's population. The Department has designated each AMWUA member as having an assured water supply and the members are vitally interested in ensuring that these designations are maintained. AMWUA's members have made significant investments in water infrastructure for the transportation, treatment and delivery of renewable surface water supplies to provide a sustainable water future for our communities. AMWUA's members have never wavered from their active support of the Groundwater Management Act, the assured water supply requirements, and the safe-yield goal for the Phoenix AMA.

NIA Water is the last "bucket" of CAP water remaining to be reallocated and it is imperative that the Department carefully consider how this supply can be put to use in ways that best promote sound water management and the greatest good. AMWUA believes that the goal of reducing the groundwater overdraft should be paramount and that this goal should apply to

the reallocation of all NIA Water, both within and outside of the CAP service area. We also believe that the Department should seek to promote sustainable water use so that the reallocations do not become a vehicle for facilitating growth based on mined groundwater or an unreliable surface water supply. Finally, we encourage the Department to improve aquifer management through its recommended reallocations by ensuring that recharge and replenishment of NIA Water occur in areas that hydrologically benefit the AMAs and their water users.

Based on these objectives, AMWUA offers the following comments for the Department's consideration.

**Because NIA Water Has a Lesser Priority than Municipal and Industrial (M&I) CAP Water and in Order to Meet its Goal of Reducing the Groundwater Overdraft, the Department Should Not Allocate NIA Water to Meet Future Population Demands if Doing So Will Increase Groundwater Pumping.**

As the Department recognizes, NIA Water is not as reliable as M&I CAP water. The Department estimates that the average availability of NIA Water is 67%. Consequently, NIA Water should not be used to foster growth if the result is increased groundwater mining.

The Process and Criteria states that applicants will need to demonstrate “how they will manage the future shortage impacts associated with this water supply.” They must “describe the alternative water supplies that will be available during shortages, and describe the necessary infrastructure to allow the use of this NIA Priority water supply as well as an alternate water supply.”<sup>1</sup> It is not clear, however, whether the Department will allow groundwater to be the “alternative water supply” that may be used by the applicant during shortages.

We recommend that the Department ensure that NIA Water will not be used to facilitate growth using mined groundwater. The Department should do this by requiring municipal water providers to demonstrate that they will be able to make the NIA Water sufficiently reliable to meet Supply and Demand Imbalances using effluent or other renewable water supplies.

---

<sup>1</sup> Process and Criteria, page 3.

Alternatively, the Department should factor the reduced reliability of NIA Water into its calculations to determine how much demand this water supply will reasonably support on a year-in-year-out basis.<sup>2</sup> To do otherwise poses the real risk that NIA Water could be used in a way that increases, rather than decreases, the groundwater overdraft.

**As a Condition to Obtaining a Reallocation, an Applicant that Plans to Recharge the NIA Water Should be Required to Demonstrate that it Will Do So in Areas Where the Water Can be Recovered by the Applicant. CAGRDR Should be Required to Demonstrate that it Will Replenish the Water in Areas Where Excess Groundwater Has Been or Will Be Pumped by or for its Members. Alternatively, an Applicant That Plans to Recharge or Replenish NIA Water Should be Required To Do So in Areas Where Groundwater Levels Are Declining.**

For many years, the Department and water users have been concerned that recharge and replenishment do not always occur in areas that hydrologically benefit the AMAs and their water users. Similarly, although CAGRDR must replenish the groundwater mined by its members, it is not required by law to do so in areas that hydrologically benefit the aquifers relied upon by its members. There has been a great deal of discussion about how the Department could encourage better aquifer management by providing incentives for recharge to occur closer to where the stored water will be recovered and for replenishment to occur closer to where excess groundwater has been pumped; or, alternatively, for recharge and replenishment to occur in specific aquifer areas where groundwater levels are declining.

The NIA Water reallocation offers an opportunity for the Department to affect this issue in a positive way. The Department appears to be trying to address this situation by requiring that an applicant "must demonstrate the ability to . . . store and recover or replenish this water in a manner consistent with the management goals for the AMA."<sup>3</sup> AMWUA does not believe this requirement is sufficient. "Consistency with the management goal" is already a condition for replenishment and certain recovery activities and it has failed to encourage replenishment, recharge and recovery in ways that hydrologically benefit the aquifer.

---

<sup>2</sup> There is clear precedent for this approach. For example, a number of the cities that participated in the SRPMIC water rights settlement received small allocations of NIA priority CAP water that RWCD had relinquished as part of the settlement. In these cities' assured water supply designations, the Department reduced the gross amount of the "RWCD Replacement Water" available by a factor of 27.28 percent to account for projected shortages of this water.

<sup>3</sup> Process and Criteria, page 3.

AMWUA recommends that the Department add teeth to this requirement. As a condition to obtaining a reallocation, the Department should require a municipal provider or an industrial user who intends to recharge NIA Water to demonstrate that it will do so in an area of the aquifer where the water can be recovered by that provider or user, or in an area with declining groundwater levels. As a condition to obtaining a reallocation, the Department should require CAGR to replenish the water in areas of the aquifer where excess groundwater is pumped by or for its members, or in areas with declining groundwater levels. AMWUA further recommends that each applicant receiving a reallocation for recharge or replenishment be required, as a condition to the reallocation, to formally commit to the Department that the applicant will comply with these limitations on recharge and recovery or replenishment of NIA Water.

**The Department Has Not Demonstrated that the Relinquishment of Groundwater Allowance Credits Will Provide a Water Management Benefit. The Requirement to Relinquish These Credits, Which Would Apply Arbitrarily to One Small Sub-set of Municipal Water Providers, Should be Rescinded.**

Under the Process and Criteria, municipal providers with assured water supply designations that will expire in 2021 and later will be required to relinquish groundwater allowance credits in order to obtain a reallocation. Of the thirty designated municipal providers in the CAP service area, only twelve have designations that expire in 2021 or later. Of these twelve, eleven are in the Phoenix AMA. Of these eleven, nine are AMWUA members. Clearly, as currently drafted, this provision seems to be aimed primarily at the Phoenix AMA and at AMWUA members in particular. Ironically, under the Process and Criteria as currently drafted, the Department appears to be intending to exclude these AMWUA members from eligibility to apply for a reallocation since they may not be able to demonstrate a Supply and Demand Imbalance in 2020. Thus, the requirement to relinquish groundwater allowance credits could potentially apply to only three designated providers, but only if these providers are able to meet the 2020 Supply and Demand Imbalance requirement, which may be doubtful given their designation expiration dates.<sup>4</sup>

The Department states, "The goal of this requirement (the relinquishment of groundwater allowance credits) is to replace groundwater use with NIA Priority Water."<sup>5</sup> We question how the Department will accomplish this goal with a requirement that will apply, if at all, only to a

---

<sup>4</sup> These designated providers are Johnson Utilities and WUCFD in the Phoenix AMA, and Sahuarita Water Company in the Tucson AMA.

<sup>5</sup> ADWR's Responses to AMWUA's Questions, October 10, 2012.

very small sub-set of municipal providers. More importantly, we question whether the relinquishment of credits, even if applied more uniformly, would have the desired results.

In the case of the AMWUA members, we know that although groundwater allowance credits are included in their designations, they intend to use this groundwater resource only as necessary to meet shortages of renewable water supplies, in times of drought, or to meet seasonal operational needs within their systems, such as canal dry-ups and water treatment plant maintenance and upgrades. Thus, to require these providers to relinquish these credits so that the groundwater associated with these credits can be made available to other assured water supply applicants—if they can demonstrate physical, legal and continuous availability—will not replace groundwater use with NIA Water. Indeed, the requirement may have the opposite effect by establishing the ability for new assured water supply applicants to pump groundwater indefinitely. In reality, this requirement would only penalize those municipal providers who have undertaken long-term water resources planning and made significant investments in infrastructure to transport, treat and deliver surface water supplies to their water service areas. For all of these reasons, AMWUA strongly recommends that this proposed requirement be rescinded.

**The Requirement that Applicants Must Demonstrate a Demand and Supply Imbalance in 2020 Is Arbitrary and May Preclude Many Applicants from Eligibility for a Reallocation, Especially Since Applicants Must Also Show How They Will Utilize the NIA Water by 2020.**

The Department states that the 2020 date “was selected to coincide with other time-specific actions identified in the Arizona Water Settlement Agreement.”<sup>6</sup> The only time-sensitive actions required by the Arizona Water Settlement Agreement relate to NIA Water to be reallocated to water providers serving certain lands within CAIDD and MSIDD. Even for these lands, ADWR is not required by the Settlement Agreement to make recommended reallocations based on a Demand and Supply Imbalance by 2020. The year 2020 merely governs the first right of refusal of water providers serving these lands within CAIDD and MSIDD to a portion of the NIA Water.

As discussed above, AMWUA recommends that the Department should not allocate NIA Water to meet population demands if doing so will increase groundwater pumping. However, to the extent that reallocations take population projections into account, the selection of the near-term date of 2020 is not consistent with past recommended allocations and reallocations of M&I CAP water. The original allocations of M&I CAP water were based on “the anticipated population times a uniform per capita use rate minus all dependable water supplies otherwise

---

<sup>6</sup> ADWR’s Responses to AMWUA’s Questions, October 10, 2012.

available to the applicant.”<sup>7</sup> The anticipated population was projected as of 2034. Similarly, the reallocations of M&I CAP water were “based on a proportionate share of the 65,645 af (of available M&I CAP water) relative to the population projections and water demand for the year 2040.”<sup>8</sup>

The Department also states that NIA Water “has a higher probability of being available in the near-term and the goal was to allocate this water to users who had limited physical availability of groundwater and who could put the water to use in the near-term.”<sup>9</sup> The Process and Criteria provides that:

Qualified applicants will need to demonstrate how they plan to utilize this water by 2020 and how they will manage the future shortage impacts associated with this water supply. Applicants must show their long-term need for this water, describe the alternative water supplies that will be available during shortages, and describe the necessary infrastructure to allow the use of this NIA Priority water supply as well as an alternative water supply.<sup>10</sup> (Emphasis added.)

It may be unrealistic to assume that many of the applicants for whom NIA Water appears to be targeted will be able to demonstrate how they will put this water to use by 2020, especially since they must also demonstrate that they will have the necessary infrastructure to do so. These applicants may be able to show their long-term need for the water, as required by the Process and Criteria, but may not be able to show that they can use the water by 2020. AMWUA members who are interested in receiving an allocation of NIA Water might be some of the only municipal providers that can show both the ability to put this water to beneficial use in the near term, and a long-term need for the water. Nevertheless, AMWUA supports criteria that will allow NIA Water to be allocated fairly and in a manner that best promotes the paramount goal of reducing the groundwater overdraft.

---

<sup>7</sup> Letter from Wesley E. Steiner, Director, Arizona Department of Water Resources to James Watt, Secretary of the Interior, January 18, 1982, page 4.

<sup>8</sup> Letter from Rita P. Pearson, Director, Arizona Department of Water Resources to Bruce Babbitt, Secretary of the Interior, January 20, 2000, page 3.

<sup>9</sup> ADWR’s Answers to AMWUA’s Questions, October 10, 2012.

<sup>10</sup> Process and Criteria, page 3.

AMWUA recommends extending the 2020 date to a year that might make it possible for more municipal providers to demonstrate the ability to pay for the NIA Water and the necessary systems to receive delivery of the water and put it to use. Alternatively, AMWUA suggests that the Department consider withholding a portion of the Municipal Pool for reallocation at a later date, perhaps 2020, when it might be more clear which municipal providers can take delivery of and pay for the water.

**The Goal of Providing Water to Areas with Limited Physical Availability of Groundwater Should Not, Standing Alone, Be a Reason to Reallocate NIA Water to Municipal Providers.**

“The Department determined that the condition of limited physical availability of groundwater was represented for many of the potential applicants by an Assured Water Supply designation that expires before 2021. Therefore, it developed selection criteria that favor entities that have AWS designations that expire before 2021.”<sup>11</sup> This statement seems to suggest that the Department intends to make recommended allocations to municipal providers whose designations expire before 2021 to allow those providers to “meet” projected increases in demand. Since these municipal providers are presumed to have limited physical availability of groundwater, the inescapable conclusion is that the demand will be met with NIA Water.

For the reasons discussed above, AMWUA questions the logic of allocating NIA Water, which is not a firm water supply, to enable future municipal growth. Unless there are other renewable supplies available to these municipal providers to make NIA Water reliable, what is the purpose of making allocations to providers who have limited physical availability of groundwater?

Without a clearer explanation for why it advances water management, AMWUA suggests that this goal is not appropriate for the reallocation of NIA Water.

**Because NIA Water Is Not a Reliable Supply, the Department Should Consider Purposes Other Than Meeting Supply and Demand Imbalances for Allocating this Water.**

As discussed above, Supply and Demand Imbalances were a fitting consideration for the allocation and reallocation of M&I CAP water. However, without sufficient non-groundwater supplies to back up its reliability, NIA Water should not be used to foster growth. There are other uses to which this supply could be put that might better advance the goal of reducing the groundwater overdraft. For example, the Department could recommend reallocations to municipal providers and industrial users who can demonstrate that the water will be used to

---

<sup>11</sup>ADWR’s Answers to AMWUA’s Questions, October 10, 2012.

replace an equal amount of groundwater pumping. The Department should also consider recommending reallocations to municipal providers who will use NIA Water to provide drought protection for other surface water supplies or to diversify their portfolios.

We urge the Department to consider all of the potential diverse uses of and needs for NIA Water and not to preclude applications merely because an applicant cannot demonstrate a Supply and Demand Imbalance in 2020. The unique character of NIA Water and its status as the last CAP water available for reallocation merit this consideration.

**The Department Should Give Applicants with Existing Industrial Uses of Groundwater Priority for Reallocations from the Industrial Pool. An Industrial User Should be Required to Reduce Pumping Under a General Industrial Use Permit to the Extent NIA Water is Available to that Industrial User.**

The Department states that, “the goal for this reallocation is to replace existing groundwater uses with NIA Priority water.” Therefore, “the Department may consider giving priority to those applicants with existing industrial water demands.”<sup>12</sup> To carry out the primary goal of reducing the groundwater overdraft, AMWUA supports the use of the Industrial Pool to replace existing uses of groundwater and encourages the Department to give priority to industrial applicants that will reduce their groundwater use.

Similarly, the Department states that it “will consider requiring modification of an industrial user’s GIU permit to require the use of the NIA Priority water when that water supply is available and to allow the use of groundwater under the GIU permit only to the extent that NIA Priority is not available.”<sup>13</sup> AMWUA encourages the Department to include this requirement.

**The Proposed “Supply Availability Charge” May Make NIA Water Affordable Only for a Limited Number of Applicants, and Could Divert CAWCD Efforts from Other Important Responsibilities.**

While not included in the Process and Criteria, the Department has requested that comments on the Central Arizona Water Conservation District’s proposed pricing for NIA Water be directed to the Department.

---

<sup>12</sup> ADWR’s Answers to AMWUA’s Questions, October 10, 2012.

<sup>13</sup> ADWR’s Answers to AMWUA’s Questions, October 10, 2012.

CAWCD has proposed to collect a Supply Availability Charge of \$1,000 on each acre-foot of NIA Water reallocated. While AMWUA questions the authority of CAWCD to levy this charge,<sup>14</sup> we have other concerns about this proposal. CAWCD has not provided a clear plan on what it will do with the revenues generated, nor a measure of the benefits that are expected to be realized. Further, nearly doubling the price of NIA Water through the assessment of a supply availability charge may make this water affordable for only a limited number of applicants.

It has always been understood that NIA Water will be less reliable than CAP M&I water and, while a program to firm CAP supplies has merit, it should be discussed in a process that involves all CAP subcontractors and contractors. CAWCD has other important and time-sensitive matters requiring its current attention—matters such as developing a form wheeling agreement with the Secretary of Interior, acquiring water supplies for CAGR, developing the next plan of operation for CAGR, and pursuing recovery planning. Therefore, we do not support the collection of a Supply Availability Charge that would divert CAWCD’s time and attention to a program to increase reliability of NIA Water.<sup>15</sup>

## **Conclusion**

AMWUA appreciates the opportunity to comment on the Proposed Process and Criteria. If, as we have recommended, the Department makes changes to the Process and Criteria, we request that the Department solicit comments on the changes. We also recommend that the Department allow the time necessary for applicants to develop and complete the information necessary to support their applications. Additionally, prior to making its recommended reallocations to the Secretary, we ask that the Department allow for public comment on its recommendations.

We encourage the Department to weigh the comments it receives carefully. NIA Water is the last unallocated supply of CAP water. It may not be as reliable as M&I CAP water, but it is certainly a valuable supply. It behooves the Department to take the time necessary to fully consider alternatives and to adopt criteria for recommending reallocations of NIA Water that reduce groundwater overdraft, promote sustainable water use and benefit aquifer management.

---

<sup>14</sup> A.R.S. § 48-3715.01 giving CAWCD the authority to establish a \$1 million fund for “voluntary acquisition or conservation of mainstream Colorado River water to supplement Project water supplies in years of shortages,” appears to limit CAWCD’s authority to collect fees for this purpose.

<sup>15</sup> As noted on page 2 of these comments, the Department should factor the reduced reliability of NIA Water into its calculations. This would avoid the need for any CAWCD program to “firm” these supplies.

Thank you for your consideration of our views.

Sincerely,



Kathleen Ferris  
Executive Director

cc: Sandy Fabritz-Whitney, Director, ADWR  
Tom Buschatzke, Assistant Director, ADWR  
Tom McCann, Assistant General Manager, CAWCD  
Brent Esplin, Deputy Area Manager, Bureau of Reclamation

Janice K. Brewer  
Governor

ARIZONA STATE  LAND DEPARTMENT

Maria Baier  
State Land  
Commissioner

November 9, 2012

Ms. Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 N. Central Ave., 2<sup>nd</sup> Floor  
Phoenix, AZ 85012

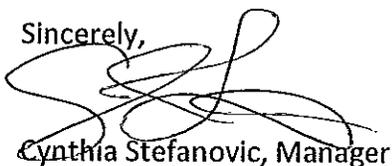
RE: Comments on the Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP)  
Water Reallocation Policy

Dear Ms. Ikeya:

We appreciate the opportunity to comment on the proposed NIA priority CAP water reallocation policy. Some of our concerns have been raised by other parties, such as the new supply availability pricing component proposed by CAP. At this time, our primary issue involves who can apply for water under this policy. We recommend that all existing Municipal & Industrial (M&I) priority CAP subcontractors be given the opportunity to apply for this water.

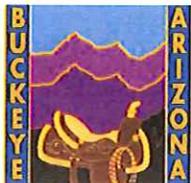
If you have any questions, please contact me at (602)542-2669.

Sincerely,



Cynthia Stefanovic, Manager  
Water Rights Section  
Natural Resources Division  
[cstefanovic@azland.gov](mailto:cstefanovic@azland.gov)

CS/



## TOWN OF BUCKEYE

November 5, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**Subject: Non-Indian Agricultural Priority Central Arizona Project Water  
Reallocation. Proposed Selection Criteria and Acquisition Pricing  
Methodology**

Dear Ms. Ikeya:

The Town of Buckeye would like to thank the Arizona Department of Water Resources (ADWR), Central Arizona Water Conservation District (CAWCD), and Bureau of Reclamation for holding the Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP) Water Reallocation stakeholder meeting on October 2, 2012. The Town has the following comments and questions in response to information presented at the stakeholder meeting.

### **SELECTION CRITERIA**

The Town appreciates all of the work ADWR staff have completed to develop and explain the selection criteria. The Town has the following comment:

- The Town supports the Process and Evaluation Criteria proposed by ADWR at the October 2, 2012 stakeholder meeting, including the selection criterion which is based on projected supply and demand imbalances in 2020.

### **CAP ACQUISITION PRICING METHODOLOGY**

The Town appreciates all of the work CAWCD staff have completed to develop and explain the acquisition pricing methodology. The Town has the following comments and questions regarding the acquisition pricing methodology.

1. **Back Capital Charges Component.** Over the years some of the water now being re-allocated as NIA Priority Water was sold as Excess CAP Water with a Capital Charge as one of the rate components. Therefore, the Town requests that the proposed Back Capital Charge (\$899 per acre-foot) be reduced by the amount of Capital Charges previously collected for Excess CAP Water. If it is not

practical to determine the exact amount of Capital Charges previously collected for Excess CAP Water, a reasonable estimate could be made.

2. **Supply Availability Charge**. If the proposed Supply Availability Charge (\$1,000 per acre-foot) remains, the Town might not be able to afford any NIA Priority Water. Consequently, the Town requests that the Supply Availability Charge be removed. At this time, cost is a more important factor to the Town than the reliability of the water supply. The Town can adjust to the uncertain availability by recharging the water within its service area when it is available and by recovering it from wells within the area of impact. The benefit of this water will be to provide localized recharge to reduce groundwater overdraft, and also to reduce the Town's reliance on the CAGR for replenishment.

If the majority of applicants don't support the removal of this charge, the Town recommends that the Supply Availability Charge be made optional. Those who cannot tolerate the uncertainty and who are able to afford the Supply Availability Charge could pay the charge and receive the guarantee that the water will be available under "normal" water supply conditions. Those who cannot afford the charge but can live with the uncertainty could opt not to pay the charge.

3. **Refund**. If the proposed Supply Availability Charge is not paid and the NIA Priority Water is not available at all, will the Debt Component Charges and Back Capital Charges be refunded?

Thank you for the opportunity to submit comments and questions.

Sincerely,



Ron Whittler  
Hydrologist  
Town of Buckeye Water Resources Department

cc: Tom McCann, Assistant General Manager Operations, Planning & Engineering,  
CAWCD  
Ted Cooke, Assistant General Manager Finance & Information Technologies,  
CAWCD



November 7, 2012

Ms. Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 N. Central Avenue  
Second Floor  
Phoenix, AZ 85012

RE: CAWCD Comments on 2012 Proposed Process and Evaluation Criteria for the Reallocation of CAP Non-Indian Agricultural Priority Water

Dear Ms. Ikeya:

The Central Arizona Water Conservation District (CAWCD) respectfully submits the following comments on the Department's Proposed Process and Evaluation Criteria for the reallocation of the 96,295 acre-feet (af) of CAP Non-Indian Agricultural Priority Water (NIA Water) that was set aside pursuant to Section 104(a)(2) of the Arizona Water Settlements Act for reallocation to non-Indian municipal and industrial users (the Proposal).

CAWCD appreciates and wholly supports the Department's efforts in developing and advancing a process for the reallocation of the CAP NIA Water. Also, subject to the comments below, CAWCD supports the balanced and thoughtful approach of the Proposal.

CAWCD's perspective on the proposed criteria is most significantly informed by its Central Arizona Groundwater Replenishment District (CAGR) role. More than 1,000 Certificates of Assured Water Supply, along with 20 Designations, depend upon CAWCD securing renewable water supplies to fulfill the associated statutory and contractual replenishment obligations. CAGR's groundwater replenishment obligation for 2011 pumping is more than 34,000 af, while its entitlement to long-term renewable water supplies is less than 25% of that volume. (CAWCD holds a CAP M&I subcontract for 7,996 af.) CAGR currently relies on excess CAP water to fulfill the balance of its annual replenishment obligation, but there is no question that CAWCD needs additional long-term water supplies to meet its current and growing future replenishment obligations. The CAP NIA Water represents a vital source of long-term water supply, and CAWCD intends to secure a portion of this supply to assist it in meeting its current and near-term replenishment obligations. Accordingly, CAWCD supports the primary focus of the Proposal, which is to allocate the CAP NIA Water to those who will actually use it by 2020. CAWCD is concerned, however, that certain elements of the Proposal are inconsistent with the broader purpose of allocating CAP NIA Water for actual, near-term demands. CAWCD offers the comments below on those elements of the Proposal.

The following overarching theme informs CAWCD's comments: The Department should ensure that the CAP NIA Water is allocated to serve actual, near-term demands of municipal and industrial users (and the CAGR) who will utilize this supply through "direct use" or replenishment by 2020 in a way that accomplishes the Department's stated water management goals for the reallocation. For purposes of these comments, the term "direct use" means direct delivery of CAP NIA Water or annual storage and recovery of CAP NIA water. It does not include underground storage to accrue long-term storage credits.

#### Reallocation for Use Outside of CAP Service Area

The Department proposes to reallocate 17,333 af of CAP NIA Water for use outside the CAP service area in 2021. CAWCD submits that there are substantial and *current* unmet demands inside the CAP service area for the entire 96,295 af of CAP NIA Water; there is simply no justification for reserving this water for future uses outside the CAP service area. Furthermore, although the Arizona Water Settlement Agreement provides for the allocation of this water to "non-Indian users within Arizona", CAWCD submits this language was not intended to authorize the allocation of CAP NIA Water outside of the CAP service area. At the time the Arizona Water Settlement Agreement and Arizona Water Settlements Act were being negotiated, there was never any discussion that some of the CAP NIA Water might be allocated outside the CAP service area. CAWCD believes that the 17,333 af of CAP NIA Water proposed to be set aside for future reallocation outside the CAP service area should be allocated now to municipal and industrial users inside the CAP service area.

Alternatively, CAWCD submits that the volume of CAP NIA Water set aside for uses outside the CAP service area should be reduced because the methodology for calculating how to split the CAP NIA Water between users inside and outside the CAP service area is incorrect. The Proposal divides the CAP NIA Water between users within and outside the CAP service area based on the percentage of the State's population projected to be living within and outside the CAP service area in 2020 (82% and 18% respectively). As a practical matter however, only a portion of the population residing outside of the CAP service area could potentially benefit from the CAP NIA Water. As indicated in the Water Resource Development Commission Report, the communities of Flagstaff and Sierra Vista are the only communities that could realistically benefit from this water supply. We urge the Department to take a closer look at this issue and eliminate or reduce the volume of CAP NIA Water set aside for uses outside the CAP service area.

#### Allocation of CAP NIA Water for Industrial Pool

CAWCD is concerned that the criteria in the Proposal related to the industrial pool are somewhat vague and could result in an allocation of CAP NIA Water for speculative uses that may not materialize by 2020, if ever. CAWCD submits that CAP NIA Water should be allocated only for permanent, "direct industrial uses" that: (1) currently exist and are based on a groundwater supply or excess CAP supply; or (2) don't currently exist, but will actually develop by 2020. The term "direct industrial use" includes direct delivery of CAP NIA Water or annual storage and

Ms. Deanna Ikeya

November 7, 2012

Page 3

recovery of CAP NIA Water. It does not include underground storage to accrue long-term storage credits. Allowing industrial users to secure this valuable long-term water supply for any purpose other than direct use (e.g., to convert this supply into a commodity—long-term storage credits—that could be marketed in the future) cannot be justified given the significant, current demand of other municipal and industrial providers (and the CAGR D) for this water. Further, CAWCD encourages the Department to consider the term of use proposed by industrial applicants and to allocate CAP NIA Water only for those industrial uses that are permanent.

With respect to industrial demands that don't currently exist, but are planned to develop by 2020, CAWCD recommends that the Department issue a conditional allocation for these uses. The conditional allocation would not vest (and no water delivery contract would be executed) unless and until the direct industrial use develops by 2020. If the use doesn't come to fruition by 2020, then the CAP NIA Water conditionally allocated would be available for reallocation to municipal and industrial users inside the CAP service area during the 2021 allocation phase.

#### Reduction of CAGR D's Demand and Supply Imbalance

The Proposal states if a CAGR D member service area or a water provider serving CAGR D member lands specifies that an allocation of CAP NIA Water will be used to reduce its reported Excess Groundwater to the CAGR D and is a recommended recipient of CAP NIA Water, then CAGR D's Demand and Supply Imbalance will be reduced accordingly. CAWCD desires to ensure that the assumed reduction in CAGR D replenishment obligation actually occurs. Therefore, CAWCD recommends that the Department not only require an applicant to specify that it will use CAP NIA Water to reduce its reported Excess Groundwater deliveries to the CAGR D, but also impose two additional requirements on such applicants. First, for member service areas, the Department should require the applicant to demonstrate how it would use the CAP NIA Water to reduce its Excess Groundwater deliveries under its designation, and require the applicant to modify its designation consistent with such demonstration. Second, again for member service areas, the Department should require the applicant to consent to amend its Member Service Agreement to reflect the modified designation and the reduction in replenishment obligation flowing from the receipt of CAP NIA Water.

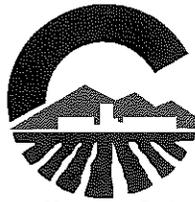
Thank you for the opportunity to comment on the Proposed Process and Evaluation Criteria regarding the reallocation of CAP NIA Water. We appreciate the Department's efforts in this matter and look forward to the next steps of the process.

Sincerely,



Thomas W. McCann  
Assistant General Manager  
Operations, Planning & Engineering

TWM:lo



**Chandler + Arizona**  
*Where Values Make The Difference*

November 9, 2012

*Via email: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)*

Ms. Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

RE: NIA Priority CAP Water Reallocation Proposed Process and Evaluation Criteria, October 2012

Dear Ms. Moreno:

The City of Chandler appreciates the opportunity to comment on the above-referenced document. We appreciate ADWR's efforts to begin the discussion on NIA reallocation. ADWR has the opportunity to further water management with the reallocated NIA water. NIA reallocated water is the last Colorado River water ADWR will allocate. The reallocation decisions have far reaching and lasting impacts to water management and the state's groundwater aquifers. ADWR's decisions impact entities that do and do not receive reallocated NIA water. NIA reallocation criteria and the impacts to the aquifer should be thoroughly understood and discussed among all Arizona water providers.

Chandler agrees with the Arizona Municipal Water Users Association (AMWUA) November 8, 2012 comments on the NIA reallocation criteria.

Chandler agrees the NIA reallocation should reduce groundwater overdraft, provide an additional source of water to areas with limited physical availability of groundwater, and meet current and future water demands. However, for some NIA water uses, the goals could conflict. Chandler recommends ADWR prioritize the goals and reducing groundwater overdraft is the dominate goal.

"Not increasing groundwater mining" is not the same as "reducing groundwater overdraft". Awarding an NIA allocation that has no effect on groundwater is not reducing groundwater overdraft. NIA water allocations should not, directly or indirectly, result in additional groundwater pumping unless this pumping is offset by recharge. NIA water allocations should add water to the aquifer. ADWR should consider the water related consequences of the NIA reallocation. The "But For" analysis should be used to examine if additional groundwater mining will occur. ADWR should determine if an NIA allocation could increase groundwater pumping within or after the next 100-years. Since the goal is to reduce the groundwater overdraft, NIA water allocations should recharge water that is not recovered. ADWR should consider a higher "cut to the aquifer" for any recharge/replenishment that occurs using reallocated NIA water. The additional cut to the aquifer will add water to the aquifer and therefore reduce groundwater overdraft. In addition, the water should be recharged in areas that are the most beneficial to the aquifer. Adding water to aquifers that are rising or where the water cannot be recovered is poor aquifer management.

*Mailing Address*  
Mail Stop 404  
PO Box 4008  
Chandler, AZ 85244-4008

**Municipal Utilities Department**  
**Environmental Resources/Water Conservation**  
Telephone (480) 782-3580  
Fax (480) 782-3805

*Location*  
975 East Armstrong Way  
Chandler, AZ 85249  
[www.chandleraz.gov](http://www.chandleraz.gov)

The goal of "Provide an additional source of water to areas with limited physical availability of groundwater" should include a companion statement that NIA allocation should not increase groundwater pumping where groundwater is limited. ADWR should define "limited physical availability of groundwater". NIA allocations must not create additional groundwater pumping in areas where the depth to water is projected to exceed the assured water supply physical availability (R12-15-716) or projected groundwater decline rate exceeds four feet per year. Chandler recommends the "Maximum 100-year depth to static water level" (R12-15-716) as the minimum criteria and ADWR look beyond 100-years if the aquifer conditions warrant. For instance, if ADWR's analysis shows future groundwater levels in the Phoenix AMA at 990 feet below land surface, ADWR should examine aquifer conditions beyond 100-years.

Meeting current and future water demands is a goal needing further refinement. "Current" and "Future" needs to be defined. Does "Current" demand include demands the water provider has committed to serve? Are undeveloped lands within a service area considered current or future? Will "Future" demands include demands that will actually occur in 2020? In addition, meeting current and future demands should not result in additional groundwater pumping.

The following comments relate to ADWR's draft evaluation criteria.

1. The NIA Pool should be allocated in three equal volumes in 2012, 2021, and 2030. Aquifer conditions will change by 2021 and the NIA reallocation criteria needs to meet changing aquifer conditions. The multiple reallocation process will minimize allocating water in 2012 for demands that may not occur.
2. The NIA Reallocation should contain safe guards to ensure reallocated NIA water is used according to the application.
3. NIA Reallocated Municipal water should be allocated by priority. ADWR's suggested pro rata basis gives a small portion of NIA water to the largest number of water providers. It's better to solve water management problems of a few providers than to give small NIA allotments to many providers and solve no water management problems. ADWR should develop a ranking system to reallocate the NIA water. The priority should be based on how well each applicant meets the three goals. Entities that best meet the goals should be allocated water first. Entities that directly use reallocated NIA water should have a higher priority than those that recharge or replenish. Entities that recharge or replenish the reallocated NIA should be required to recharge/replenish in the "Area of Hydrologic Impact" where the recharge/replenished water is pumped. To be consistent with ADWR's goal of reducing groundwater over draft, recharge/replenishment within the AOHI, should require a minimum cut to the aquifer. If recharge takes place outside the Area of Hydrologic Impact, but within the same sub-basin, the cut to the aquifer should be higher than the minimum. Entities that recharge/replenish outside the sub-basin where their pumping occurs should be placed further down the priority list.

As a straw man, Chandler recommends the following criteria to determine the allocation priority:

- 50% - reducing groundwater overdraft (adding water to the aquifer)
- 30% - providing an additional source of water to areas with limited physical availability (without negatively impacting an aquifer)
- 10% - meeting current water demands (without negatively impacting an aquifer)
- 10% - meeting future water demands (without negatively impacting an aquifer)

Reducing ground water overdraft criteria listed by importance.

- a) Direct use of NIA water via treating NIA water through a surface water treatment plant to replace current groundwater pumping should have the highest weight.
  - b) Recharging/replenishing more NIA water than what is being pumped in the AOHI.
  - c) Surrendering a CAGRDR contract for NIA water. The ratio of the volume of CAGRDR contract surrendered to the requested NIA Water should be considered.
4. NIA water allocated to an industrial user should be a nontransferable permanent contract for a specific use. If the industrial user ceases operations or significantly changes operations, the NIA water should revert back to the state for reallocation.
  5. The criteria used to evaluate public, private, and CAGRDR should be the same. ADWR's three goals should apply equally to public, private, and CAGRDR entities. The reallocated water's end use should not be considered. Any increase in groundwater overdraft is not justifiable.
  6. Relinquishing groundwater allowance credits criteria should be deleted. Please refer to AMWUA's comments dated November 8, 2012.
  7. Comment Period and Final Policy Timeline. Reallocated NIA water will profoundly impact aquifer water levels, water management, and economic development. ADWR should redraft the NIA reallocation policy and solicit a second round of comments. ADWR should take the necessary time needed to complete a thorough analysis and solicit public review/comments.

Sincerely,



Doug Toy  
City of Chandler

Cc: Dave Siegel, Gregg Capps, Kathy Ferris (AMWUA)

11/9/2012

• • •

Christopher J. Brooks  
4025 E. Kilmer St.  
Tucson, AZ 85711  
520-661-4403

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

RE: COMMENTS ON NIA RE-ALLOCATION PROCESS

**Dear Ms. Ikeya**

Let me first point out that these comments are reflective of my personal beliefs and preferences only. They are not submitted as representative of the opinions or preferences of any particular organization that may have a role in water management.

I submit these comments as a stakeholder only in the sense that I am a member of the Arizona water management community with a strong interest in seeing that water allocations occur in ways that are economically efficient, hydrologically sensible, and likely to result in better overall water management in Arizona.

While I have the utmost respect for the competence of the staff at the Arizona Department of Water Resources and their abilities to manage Arizona's Colorado River entitlement I believe that a tightly controlled administrative process, as proposed, is unlikely to result in the best possible outcome for the re-allocation of this NIA water. Times of scarcity require new models for resource allocation and this situation presents a unique opportunity for the state to begin to explore the possibility of using markets to allocate a portion of our Colorado River water.

Administrative allocation requires too much precision in predictions that are based on assumptions derived from past data that may not be applicable during times of scarcity. And because such a process typically leads to entrenched rights to the water it can result in



lingering inefficiencies that increase in effect over time. The best mechanism (although admittedly also not perfect) to manage this complex process is clearly a robust water market.

I believe that an administrative allocation process is actually less likely to result in an equitable and efficient allocation of the water under these circumstances largely because of the acknowledged superiority of markets but also because of what I perceive to be shortcomings of the process proposed by ADWR.

- 1) Because the process depends on projections of future water needs it could encourage potential recipients to inflate their future water needs and dis-incentivizes conservation as a means to increase available water supply. This could also lead to distortions in local development planning processes.
- 2) The stated goal of providing alternate water for water short areas is not supported by criteria that allow use of storage and recovery to utilize this water – this only pays lip service to the similarly stated goal of reducing ground water over-pumping. Additionally most areas are short of water not because of actual physical shortage but because of water policies that currently under-price the resource. Providing these areas with additional under-priced water does not remedy the problem of growth occurring in places where it has, or will soon, outstrip available supplies.
- 3) As a result of the problems noted above in 1) and 2) the proposed allocation process may disadvantage municipalities that are successfully managing their existing supplies through effective pricing and conservation programs, thereby not needing additional supplies to meet expected demands on the timetable set by ADWR. This is clearly not the right message to be sending to the water management community.
- 4) A closely controlled administrative process that may be intended to limit opportunities to game the system conversely provides additional opportunities to do just that.
- 5) The proposed allocation method under-prices the water, which likely ensures that it will be neither allocated efficiently nor utilized efficiently, because a mechanism that correctly prices the water is necessary to balance supply with demand.

A market does not solve all of these problems, but if implemented properly should effectively mitigate them to the greatest extent possible. In this case the ideal market mechanism is an auction – in all likelihood a market-clearing auction similar to what was proposed by CAP staff as part of the ADD Water process. Economics research is littered with examples that show the effectiveness of auctions and other market mechanisms to match supply with demand and ensure that resources are allocated to their highest and best use in the most efficient manner.



An auction deals with the issue of recipients being able to show their ability to pay for the water because they cannot participate in the auction if they are unable to pay. This would also eliminate the requirement that recipients put the water to use according to a predetermined schedule – entities would enter the auction at the time they have a need/anticipated use for the water (especially if short-term entitlements are auctioned). Additionally, because the market price for the water determined by the auction process provides a clear marginal price signal this would permit water providers to then transmit that price signal to water users in their service area, an extremely useful planning tool. Potential recipients outside of the CAP service area would be permitted to enter the auctions when they have a need for the water and the ability to make use of the water.

I acknowledge the fact that language contained in the Arizona Water Settlements Act may necessitate an administrative allocation process for some of this water, such as amounts that are set aside for water providers within the service areas of the two irrigation districts in Pinal Co. But that only limits the options with a small amount of this water. At the very least, those amounts of the 96,000 acre-feet that are most likely to be subject to shortage disruptions should be allocated via short-term auctions (i.e. every 1 to 5 years) in order to ensure that recipients of this water have assurances of its availability. Possibly more secure allocations of water could be auctioned separately for longer terms. But an auction of short-term allocations would eliminate the need to incorporate short-term supply risk in valuing this water.

This would be a challenge for water providers seeking secure water allocations to incorporate into their water resources planning and may even necessitate some modifications to the Assured Water Supply program, but these challenges should be outweighed by the increased efficiencies in water allocation that this type of program could bring.

Because the apparent demand for this water suggests that prices received via auction are likely to be in excess of the cost of providing the water through the CAP system, the issue of excess revenue received for this water must be dealt with. For starters, this revenue could be used to pay the 9(D) debt and past capital charges associated with this water. Some of the revenue could be deposited into a fund that would be used to increase the reliability of this water. Any excess revenue that exceeds these and other costs could be refunded to the successful bidders to eliminate any profit from the allocation of this water and ensure that no one is enriching themselves from this process.

I hope you will give serious consideration to the concept of auctioning at least some portion of the NIA water that will be reallocated in coming years. Unless Arizona can embrace the



use of markets to allocate this increasingly scarce resource we will be subject to increasing costs of inefficiency in water allocation decision-making as water scarcity becomes more and more a simple fact of life.

Please feel free to contact me if you have any questions about the ideas I presented in these comments.

Best regards,

A handwritten signature in black ink, appearing to read 'CJB', with a large, sweeping flourish at the end.

Christopher J. Brooks



# Town of Clarkdale

P.O. Box 308  
Clarkdale, AZ 86324  
(928) 639-2400 phone  
(928) 639-2409 fax

---

October 9, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

Subject: Non-Indian Agricultural Priority Central Arizona Project Water Reallocation Proposed Process and Evaluation Criteria

Dear Ms. Ikeya,

The Town of Clarkdale has been actively engaged with other NAMWUA member communities in planning for their future water requirements for many years. Currently, the U.S. Bureau of Reclamation (Reclamation) is conducting the North Central Arizona Water Supply Feasibility Study and the Central Yavapai Highlands Water Resources Management Study. Both studies consider the use of a renewable water supply as an alternative to regional water needs. The work on the North Central Study has been ongoing since 2000 and the Central Yavapai Highlands since 2007. The ability to purchase CAP water for use or exchange is an important factor as alternatives are evaluated in these water planning processes.

As you are aware, NAMWUA originally expressed interest in 2005, and remains interested today, in obtaining a portion of the reallocation water. The Town of Clarkdale applauds ADWR for considering the future water requirements of the areas outside the CAP service area and strongly supports the inclusion of offering 17,333 AF of water to these applicants in 2021.

While we understand the concern that water providers within the CAP service area should not pay for water delivery projects needed for rural areas located outside the CAP service area, we have serious concerns about the pricing methodology proposed by CAP, as follows:

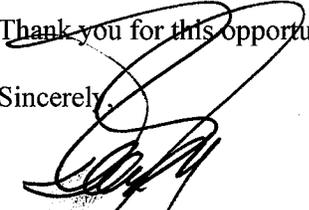
- The CAP proposal to charge customers outside the CAP service area the Back Capital Charges Component and the Back Property Tax Equivalency Component results in water users outside the CAP service area paying a portion of the debt service and other costs associated with the CAP delivery system in addition to the cost to construct their own water delivery systems.
- While we recognize Arizona Revised Statutes § 48-3715.B, we strongly believe this was intended for future customers that would be using the CAP delivery system or may be obtaining the water and exchanging it with someone inside the CAP service area. As such, we do not support CAP's recommendation for the application of the Back Property Tax Equivalency Price Component for NIA reallocations made to subcontractors outside the CAP three-county service area.
- We also question the date on which the Back Capital Charges Component is based. Our understanding is the Agriculture subcontracts were relinquished in 2004. If this is the case, and the subcontractors paid the repayment obligation through that time, the calculation should not go back to 1993.

The Historic Town of Clarkdale  
[www.clarkdale.az.gov](http://www.clarkdale.az.gov)

Our final comment relates to the NEPA requirements for the reallocation process. As you are aware, Reclamation is concurrently conducting an EIS with the feasibility study for the Coconino Plateau and we can assume they will be doing the same as the Central Yavapai Highlands work moves forward to the feasibility study stage. We anticipate the EIS studies included in these two efforts will suffice to either meet NEPA requirements for the reallocation process, or at least serve to significantly reduce the cost if any additional EIS is going to be required as part of the reallocation process.

Thank you for this opportunity to comment.

Sincerely,



Doug Von Gausig, Mayor  
Town of Clarkdale



◆ 827 North Main ◆ Cottonwood, Arizona ◆ 86326  
Phone: 928-634-4112 ◆ E-mail: mayor@dianejoens.com

**Diane Joens**

*Office of the Mayor of Cottonwood*

October 10, 2012

Ms. Deanna Ikeya  
Colorado River Management Section  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

Re: Non-Indian Agricultural Priority Central Arizona Project Water Reallocation –  
Proposed Process and Evaluation Criteria

Dear Ms. Ikeya,

The City of Cottonwood (“the City”) has been actively engaged in developing plans to ensure that the present and future water needs of its residents are met. For example, in 2005/2006, the City acquired five private water companies in the surrounding area to help meet its water demands. The City expects that over the next decades, its population will continue to grow and thrive – but in order to accommodate this growth, the City must develop a water strategy that recognizes and deals with the challenges the City faces. Rooted in this strategy is the recognition of the value and importance the Verde River provides to the City and State. Ultimately, the City’s water management and planning decisions will include meeting the City’s water demand and maintaining the flow of the Verde River.

The availability of a future a block of CAP water that the City could potentially acquire for use and/or exchange would greatly enhance the City’s currently limited portfolio of water source options. Strengthening the City’s water portfolio is essential for meeting the future needs of the City’s residents and businesses.

For this reason, the City commends ADWR for considering the future water requirements of the rural areas outside the CAP service area and strongly supports the proposed reservation of 17,333 acre-feet of water to be reallocated in 2021 to water users outside the CAP system. With respect to the proposed CAP Acquisition Pricing Methodology, however, the City has serious concerns about the inclusion of a “Back Capital Charges Component” and a “Back Property Tax Equivalency Component” to the acquisition costs of allocations made to users outside the CAP service area.

Including both of these components to the acquisition costs of allocations made to users that will never utilize or benefit from the CAP system is both unfair and inequitable. For years, rural water providers have listened to the urban cities within the CAP service area declare that they refuse to pay for water delivery projects needed for rural areas located outside the CAP service

area; and yet, this new pricing methodology proposed by CAP will require water users outside the CAP service area to not only pay for a portion of the debt service and other costs associated with the CAP delivery system that urban cities have enjoyed, but to also pay for the cost of constructing their own delivery system outside of the CAP service area.

Another issue that concerns the City is the 1993 starting date for which the "Back Capital Charges Component" would be calculated. If the allocations were relinquished in 2004 by the irrigation districts, didn't the irrigation districts pay the Capital Charges component up until they were relinquished in 2004? If that is the case, the Back Capital Charge should be calculated from 2004 rather than 1993 as proposed.

The City **strongly recommends** that CAP revisit the pricing methodology proposed and exclude the "Back Capital Charges Component" and the "Back Property Tax Equivalency Component" to the acquisition costs of allocations made to users outside the CAP service area.

Thank you for considering the City of Cottonwood's perspective.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane Joens", written in a cursive style.

Diane Joens, Mayor

TW/DJ

cc: Doug Bartosh, City Manager

# Douglas Ranch

October 17, 2012

**Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue  
Second Floor  
Phoenix, AZ 85012

Re: Non-Indian Agricultural ("NIA") Priority CAP Water  
Reallocation Proposed Process and Evaluation Criteria dated  
October, 2012 ("Criteria")

Dear Ms. Ikeya:

On behalf of Douglas Ranch, I wish to express Douglas Ranch El Dorado's support for the Department's efforts in developing the Criteria. The NIA water will be an important renewable water supply for the three-County area, and we appreciate the Department's thoughtful proposal for allocating this supply.

As you may be aware, Douglas Ranch El Dorado is an ownership entity that controls the 33,810 acre Douglas Ranch Master Planned Community. Douglas Ranch is located in the Town of Buckeye, which does not have access to CAP M&I Subcontracts or to water from the Salt River system. With that in mind, we support the Department's efforts to focus the allocation of the Municipal Pool of NIA water on those communities that will need this water in the near term. This strategy will assist in ensuring that the NIA water supply is put to use quickly by communities that do not already have significant renewable water sources.

We also strongly support allowing CAGRDR to participate in the Municipal Pool. A number of our developments are Member Lands in the CAGRDR, and Douglas Ranch El Dorado has long supported efforts to strengthen the CAGRDR. CAGRDR clearly has a demand for water supplies for replenishment purposes. The need of Member Lands and Member Service Areas for CAGRDR replenishment services already exists and continues to grow. CAGRDR has been criticized for meeting its replenishment obligations, in large part, with excess CAP water. It is now time for CAGRDR to enlarge its portfolio of long-term supplies to ensure that it can continue replenishing groundwater for its current and future members into the future.

426 North 44<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85008

There are a number of other reasons for supporting CAGR's participation in the Municipal Pool. The CAGR replenishment function has a very important role in achieving the management goals of the Phoenix, Tucson and Pinal Active Management Areas, while allowing growth to occur in areas without access to renewable supplies. Further, because CAGR undertakes replenishment and is not a direct provider of water supplies, CAGR has more flexibility to manage the unpredictable availability of NIA water. Lastly, because CAGR's members are located throughout all three Counties, an allocation of NIA water to the CAGR benefits numerous communities and thousands of individual homeowners.

Thank you for the opportunity to comment on the Criteria. We are looking forward to continued participation in this important process of NIA water reallocation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. Cronin'. The signature is stylized with large loops and a long horizontal stroke at the end.

Michael J. Cronin

Douglas Ranch Project Manager



# El Dorado

Holdings, Inc.

October 17, 2012

**Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue  
Second Floor  
Phoenix, AZ 85012

Re: Non-Indian Agricultural ("NIA") Priority CAP Water Reallocation  
Proposed Process and Evaluation Criteria dated October, 2012  
("Criteria")

Dear Ms. Ikeya:

On behalf of El Dorado Holdings, Inc. (EDHI), I wish to express our support for the Department's efforts in developing the Criteria. The NIA water will be an important renewable water supply for the three-County area, and we appreciate the Department's thoughtful proposal for allocating this supply.

EDHI is the controlling member of numerous partnerships in both Maricopa and Pinal Counties, which do not have access to CAP M&I Subcontracts or to water from the Salt River system. With that in mind, we support the Department's efforts to focus the allocation of the Municipal Pool of NIA water on those communities that will need this water in the near term. This strategy will assist in ensuring that the NIA water supply is put to use quickly by communities that do not already have significant renewable water sources.

We also strongly support allowing CAGR D to participate in the Municipal Pool. A number of our developments are Member Lands in the CAGR D, and EDHI has long supported efforts to strengthen the CAGR D. CAGR D clearly has a demand for water supplies for replenishment purposes. The need of Member Lands and Member Service Areas for CAGR D replenishment services already exists and continues to grow. CAGR D has been criticized for meeting its replenishment obligations, in large part, with excess CAP water. It is now time for CAGR D to enlarge its portfolio of long-term supplies to ensure that it can continue replenishing groundwater for its current and future members into the future.

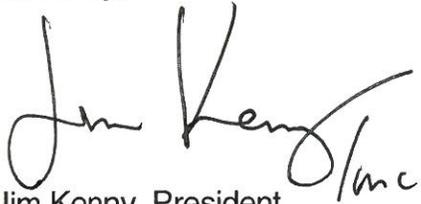
One Gateway Center

426 North 44th Street, Suite 100 ● Phoenix, Arizona 85008 ● (602) 955-2424 ● FAX (602) 955-3543

There are a number of other reasons for supporting CAGR D's participation in the Municipal Pool. The CAGR D replenishment function has a very important role in achieving the management goals of the Phoenix, Tucson and Pinal Active Management Areas, while allowing growth to occur in areas without access to renewable supplies. Further, because CAGR D undertakes replenishment and is not a direct provider of water supplies, CAGR D has more flexibility to manage the unpredictable availability of NIA water. Lastly, because CAGR D's members are located throughout all three Counties, an allocation of NIA water to the CAGR D benefits numerous communities and thousands of individual homeowners.

Thank you for the opportunity to comment on the Criteria. We are looking forward to continued participation in this important process of NIA water reallocation.

Sincerely,

A handwritten signature in black ink that reads "Jim Kenny" with a stylized flourish at the end that includes the letters "inc".

Jim Kenny, President  
El Dorado Holdings, Inc.



# City of Flagstaff

October 8, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**Subject: Central Arizona Project Non-Indian Agricultural Priority Water (CAP-NIA)  
Reallocation Proposed Process and Evaluation Criteria**

Dear Ms. Ikeya,

The City of Flagstaff has been actively engaged in planning for our water future in numerous venues for many years. These have included working with the Department and Bureau of Reclamation on the North Central Arizona Water Supply Appraisal Study and now Feasibility Study; Northern Arizona Municipal Water Users Association; and conducting our own Water Resources Master Plan. All of these efforts point to the use of renewable water supplies to meet our long-term water needs. For many northern Arizona communities the ability to purchase Central Arizona Project (CAP) water for either direct use or exchange is an important component in our regional water planning as we look to the future.

The City commends the Department with the visionary proposal to create a pool of 17,333 AF of CAP-NIA water for those areas of Arizona outside the CAP service area. Historically speaking, this is directly in line with the philosophy at the time when the original M & I allocations were made in 1983 where numerous communities and industry were provided CAP allocations. In fact, the City of Flagstaff was asked for a letter of intent to commit to a CAP allocation back in 1975. Therefore, ***we strongly support the Department in creating this pool!*** One might even argue that this pool should be available beyond 2021 as a permanent set aside until these areas can finalize their planning and financing alternatives.

Lastly, the City has serious concerns about the pricing methodology proposed by CAP. I suggest that CAP revisit their proposal to charge customers outside the CAP service area the Back Capital Charges Component and the Back Property Tax Equivalency Component where water users outside the CAP service area are expected to pay a portion of the debt service and other costs associated with the CAP delivery system. This does not seem fair for communities that are not going to use any CAP canal capacity to not only pay for their own infrastructure but CAP service area customers as well.

Sincerely,

Bradley M. Hill, R.G.  
Utilities Director

cc Tom McCann and Ted Cooke – Central Arizona Project (via email)



Land and Water Department  
Freeport-McMoRan Copper & Gold  
333 North Central Ave., Phoenix, AZ 85004

November 9, 2012

Sandra Fabritz-Whitney, Director  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012-2105

Re: Non-Indian Agricultural Priority Central Arizona Project  
Water Reallocation--Proposed Process and Evaluation Criteria

Dear Director Fabritz-Whitney:

Freeport-McMoRan Copper & Gold, Inc. (Freeport) appreciates the opportunity to provide comments on the proposed process and evaluation criteria for the Department's reallocation of Non-Indian Agricultural (NIA) Priority Central Arizona Project (CAP) water. Freeport, through its subsidiary Freeport-McMoRan Sierrita Inc., owns and operates the Sierrita Mine, which is in the Green Valley area and more broadly within the Tucson Active Management Area (AMA) and CAP service area. Freeport, through other subsidiaries, owns other substantial mining operations outside the AMAs and CAP service area. Water is essential to mining, and development of renewable supplies is important to the future of the industry in the State.

We share the two concerns that were included in the comment letter filed by the Arizona Mining Association, of which Freeport is a member. First, we also believe that the industrial sector's share of the NIA pool should be increased. Projections are that the reliability of NIA pool water supplies is fairly firm in the near future, but becomes increasingly vulnerable to shortage in the next 30+ years. This makes NIA pool water supplies uniquely suitable to the industrial sector, since it does not have 100-year assured water supply requirements as does the municipal sector. Industrial users typically have groundwater as its supply of last resort for new demands and would more quickly utilize this supply than would the municipal sector, which is currently in a low growth economic cycle.

Second, industrial uses, particularly mining, have been a driver in growth in the State and represent the biggest "bang for the buck" in terms of revitalization of the State's economy. Industrial use of NIA pool water will have an immediate economic impact by supporting industrial operations (mining and power) that produce immediate benefits (tax revenue and power generation) for the State. This point becomes magnified when you consider that NIA pool water is less suited for long-term water planning purposes, such as drought protection. Industry users will have the financial capacity to place this water

into use most efficiently in a short-term planning horizon with maximum economic efficiency for the State.

We also have the following additional comments:

1. As a general matter, the policy should allow for flexible sharing of allocations between individual users and between users in different pools. For example, an industrial user that has a short term need might want to team with a municipal user with a longer term need. Similarly, industrial users may be able to immediately put to use water allocated to CAGR for longer term demands.
2. We are concerned that some competing industrial uses (such as power) could “play” in both pools. To the extent a municipal application includes a significant industrial demand, the nature of that demand (including the user) should be disclosed.
3. The policy should favor users located within the CAP service area AMAs and not the CAP service area as a whole (Criterion #1). Through the Groundwater Management Act, the State has enunciated groundwater management goals which would not be served through allocating this resource to entities reliant on groundwater pumped outside the AMAs. Criterion #4 references use or storage of the water “consistent with the water management goals of the AMA” but in the absence of a clear preference for AMA water demands, this limitation would appear to apply only to users in the AMAs
4. In requiring applicants to demonstrate that the costs associated with acquiring and utilizing the supplies have been analyzed (Criterion #2) and that there is a plan to create the necessary infrastructure (Criterion #3), the Department must recognize that the nature of these plans at this stage will necessarily be conceptual, as many infrastructure-intensive water development projects need to have an available supply identified before detailed engineering and cost evaluation would be conducted. Also, as we noted in our public comments, the criteria follow roughly the assured water supply requirements. The Department should make clear (as it did at the hearing) that assured water supply standards do not apply here.
5. We support the use of the Demand and Supply Imbalance calculation (Criterion #5), which will favor current users of groundwater. We note that use of this supply by industrial sources is likely to directly offset demands that would otherwise need to be met by groundwater, fulfilling one of the Department’s main goals.
6. We are very concerned with the proposal (Criterion #5) to reduce all requests pro rata if the volume of the requests exceeds the available supply. This policy will favor existing CAP users, which are likely to be able to make use of virtually any size allocation given their current access to CAP infrastructure. By contrast, for Sierrita or other Green Valley-area users to utilize this resource, it would have to install expensive infrastructure (pipeline and storage capabilities) to access the canal. An allocation based on pro rata reductions may simply be too small to make the infrastructure investment worthwhile. The Department should retain the flexibility to authorize large allocations

to certain applicants if it is necessary to do so to support infrastructure that serves valuable water resource objectives of the Department.

7. The timeframe (60 days) between the announcement of the final selection criteria and submission is too short for potential applicants to fully evaluate the likelihood that NIA water will provide a meaningful and economic source of water, and then to prepare a full application. We suggest at least 120 days.

8. Questions. We had a number of questions that should be clarified in the final procedures. These include:

a. Will an industrial user that receives a reallocation be required to give up rights to pump under a grandfathered groundwater right? We suggest that the nature of the supplies provided here are sufficiently uncertain that requiring any such commitment will simply cause industrial users to forgo the NIA pool altogether.

b. Is an industrial user that is receiving water from a municipal provider or is located in a municipal provider's service area eligible for a reallocation?

d. What happens to the reallocation if the industrial use ceases?

e. What is the rationale for why this Pool is not deducted from the total NIA Water amount of 96,295 acre-feet before the 82/18 proration (based only on population) is applied? Following our comments above, if this water is to be made available for uses outside the AMAs, then the pool should be larger and should be deducted off the top before the population spilt is made.

f. Is there any difference in priority between municipal and industrial uses within the NIA pool?

We appreciate the opportunity to comment and look forward to continued participation in the process.

Sincerely,



Tim Gibson  
Senior Resource Analyst

cc: Tom Buschatske, ADWR  
Michelle Moreno, ADWR  
Shilpa Hunter-Patel, Freeport-McMoRan Corporation



November 9, 2012

Via E-mail

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 N Central Ave, 2nd Floor  
Phoenix, AZ 85012

RE: NIA Reallocation Proposed Process and Evaluation Criteria

Dear Ms. Ikeya,

Gilbert appreciates the opportunity to submit comments on the NIA reallocation process. Gilbert, as a member of the Arizona Municipal Water Users Association (AMWUA), agrees with the comments submitted by AMWUA on this subject. However, as with each potential reallocation recipient, Gilbert has its own unique circumstances relating to the NIA reallocation.

Gilbert first notified the Arizona Department of Water Resources (the Department) in 2001, and then again in 2002, of its interest and need to acquire an allocation of the NIA water, due to Gilbert's inability to obtain an adequate supply of renewable supplies to enable the Town to meet its projected build-out demand.

In 2006, Gilbert received a notification of exceedence letter from the Department, requiring that Gilbert amend its Assured Water Supply Designation (AWS) in order to bring the Town back into AWS compliance. Gilbert's only alternative to meet the AWS requirements was to join the Central Arizona Groundwater Replenishment District (CAGRDR). Gilbert's build-out replenishment obligation to the CAGRDR is 17,888 af/yr. Gilbert has recently completed its Updated Integrated Water Resources Master Plan, which once again identifies Gilbert's need for additional renewable supplies at build-out, in the range of 5,000 af/yr to 10,000 af/yr, depending upon the projected growth in the Science and Technology sector, as well as the residential sector.

Gilbert has continued to seek renewable supplies, working with the Native American Communities to obtain AWS eligible long term leases, and is currently waiting for execution of the White Mountain Apache Tribe Settlement, and for the Bureau of Reclamation's approval of the lease agreement between the San Carlos Apache Tribe and Gilbert. However, even with the addition of these renewable supplies, Gilbert still shows a need to rely on the CAGRDR for our projected build-out demand in the next AWS, whether that date is 2020 or 2025. Receiving an allocation of NIA water may help Gilbert hasten its de-enrollment from the CAGRDR.

Gilbert offers the following comments relating specifically to the proposed NIA reallocation criteria:

1. First and foremost, this pool of NIA water is the last CAP water that will be available for reallocation, and therefore the long term consequences of the Department's reallocation criteria and process should

be thoroughly vetted through all possible recipients, both within the CAP Tri-County area and outside as well.

2. Gilbert supports the premise of "healthy aquifer management" and suggests the development of criteria that ensures hydrologic benefit to the AMA's. The current proposed criteria are contradictory and need to clearly identify the pathway to healthy aquifer management. Gilbert agrees with the goal of minimization of groundwater mining, and encourages the Department to focus on the methodology necessary to ensure the success of this goal through the reallocation criteria.

3. The Department's 2020 date of demonstration of a demand/supply imbalance and how the entity will utilize the water by 2020 appears to have no basis of fact, and will likely exclude Gilbert, as well as all other water providers who have Designations through 2025, from eligibility for a reallocation. In addition to clarifying the logic behind the demand/supply imbalance requirement, the Department also needs to clearly define the evaluation criteria of "utilization" for the reallocation.

4. The Department's logic for requiring an entity with an AWS expiring after 2020 who receives an allocation to relinquish a portion of their GWA credits is counterintuitive, specifically since the Department has identified that these credits would then be available for a future water provider. This scenario neither promotes healthy aquifer management, nor reduces groundwater pumping. Rather, it allows for additional groundwater mining by an entity that later receives these reallocated credits. Gilbert recommends this requirement be eliminated from the criteria.

5. From Gilbert's perspective, the Department's current reallocation criteria will allow for only a small portion (if any), of the potential recipients of the NIA reallocation supply/demand imbalance issues to be resolved. Gilbert agrees with AMWUA's recommendation that the Department develop a grading rubric for scoring applications, and suggests using a stakeholder process to develop and rank the criteria. This will allow the creation of a weighting system based on consensus, and one that also meets the reallocation process goals. Additionally, in an effort to reduce CAGR's replenishment obligation, ADWR should consider the option of allowing CAGR members who are willing to reduce their obligation through receipt of an NIA allocation at a 4 to 5 ratio (for example).

6. Finally, the Department's current timeline for the criteria comment period and the development of the final policy should be extended. The importance of this reallocation process cannot be overemphasized, and the Department needs to take all the time necessary to develop a process that is transparent, most beneficial for healthy aquifer management, and fair for all the stakeholders involved.

Thank you for the opportunity to submit comments regarding the reallocation criteria, and Gilbert looks forward to the opportunity to continue to be a stakeholder participant in the NIA reallocation process.

Sincerely,



Håkon Johanson – Acting Water Resources Manager  
Kathy Rall - Consultant  
Town of Gilbert

cc: Kathy Ferris, Director of AMWUA  
Marc Skocypec, Deputy Town Manager



*Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)*

November 8, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**Subject: City of Glendale Comments on NIA Water Reallocation**

Dear Ms. Ikeya:

The City of Glendale appreciates the opportunity to comment on the proposed process and evaluation criteria for the reallocation of Non-Indian Agricultural (NIA) priority Central Arizona Project (CAP) water. This process has the potential to bring additional needed water supplies to the West Valley where Glendale is the largest city. The successful reallocation of NIA water for current and future demands in this area and ADWR's recommendations on the allocations are very important to Glendale.

Glendale is in general agreement with the goals outlined by ADWR to guide the reallocation of NIA water. Of these goals, Glendale believes that reducing groundwater overdraft to help achieve safe yield and managing the aquifer to reduce areas of severe groundwater depletion are the most important. Because ADWR and the Central Arizona Water Conservation District (CAWCD) have indicated that the NIA water is likely to be an unreliable supply, the additional goal of meeting current and future demand must be accomplished in ways that decrease groundwater overdraft instead of contribute to it.

In this comment letter, Glendale will provide examples of how these goals might be better achieved by modifying the criteria in some important ways. These are Glendale's preliminary comments on the criteria and procedure and the City may have additional comments as the process moves forward.

Glendale is a member of the Arizona Municipal Water Users Association (AMWUA), a non-profit organization dedicated to protecting the ability of its members to provide safe, secure, and sustainable water supplies. As an AMWUA member, Glendale has participated in the development of comments on the reallocation of NIA water prepared by AMWUA and supports the AMWUA comment letter.

**1. Not all of the NIA Priority Water Should Be Allocated at Once**

The proposal allocates nearly all of the 96,295 acre-feet (af) of NIA water by 2020. This date is arbitrary as it does not appear in the in the Arizona Water Settlement Agreement. Prior

allocations examined demands at a much larger time distant from the action, for example in 2034 for the original allocation and by 2040 for the original reallocation.

A better approach would be to divide the amount of available water by thirds, as contemplated in the settlement agreement for the Pinal County area, and adjust future allocations as conditions dictate for aquifer management. Delaying allocation of the entire amount and limiting the amount allocated in the initial round will allow ADWR to evaluate the results of the initial allocation on groundwater management. Depending on the results, the criteria can be adjusted in future rounds to better achieve the goal of enhanced aquifer management.

**2. The NIA Reallocation Process Should Not Take Place in Isolation from Other Planning Efforts**

Glendale believes that ADWR may be missing an opportunity to more closely link the NIA reallocation with two other important processes underway that have the potential to better achieve safe-yield in Arizona's Active Management Areas: The Fourth Management Plan for the AMAs and the Central Arizona Groundwater Replenishment District (CAGR) plan of operation. Both plans will include enhanced aquifer management to address areas of concern at a more local level instead of at a macro AMA-wide level.

ADWR should more closely match recharge and replenishment with locations in the AMA where groundwater pumping could have (or has had) negative impacts on the aquifer. For example, within the CAP service area, the only guidance in the criteria for the location of storage, recovery, or replenishment of the NIA Priority water is that it be "in a manner consistent with the water management goals for the AMA." Rather than this general statement, it might be better to have specific criteria that would direct NIA water to areas having large groundwater declines, such as in the vicinity of Luke Air Force Base.

As noted in comment one above, it may be advantageous to defer allocating all of the NIA water to better achieve targeted water management goals. Since those goals will be determined in planning efforts to be concluded within the next two years, ADWR should consider delaying the allocation of NIA water until the Fourth Management Plan and the next CAGR Plan of Operation are completed.

**3. There Should be Specific Selection Criteria for Areas outside the CAP Service Area that will Enhance and Protect Renewable Resources**

As with the need to more directly link the NIA reallocation with specific performance goals for AMAs within the three-county CAP service area, there should be a more direct link with specific water management goals outside the CAP service area. At present, the ADWR proposal contains no selection criteria for water users outside the CAP service area. The Prescott and Santa Cruz areas have AMAs and the criteria for NIA allocations outside the CAP service area should at a minimum contain a general statement that NIA water allocated to users in AMAs there should be used "in a manner consistent with the water management goals for AMAs

outside the three-county CAP service area.” It would be preferable for ADWR to have specific goals that the NIA water should accomplish outside the CAP service area, such as maintaining and augmenting stream flow in the Verde and San Pedro Rivers or ensuring that groundwater pumping in areas tributary to these streams are replaced with renewable NIA water so that continued mining of groundwater will have minimal negative impact on stream flow.

**4. NIA Water Should Be Reallocated in Such a Way as to Have the Most Impact on Repairing and Protecting Damaged Aquifers**

Given that the criteria are likely to result in a comparatively large portion of the municipal pool in the CAP service area being allocated to the CAGRDR, with comparatively small amounts to a limited number of providers that are able to demonstrate a demand and supply imbalance by 2020, the result may have a relatively small impact on those areas in the aquifer which are being heavily mined for groundwater. For example, the water intended for the CAGRDR will most likely end up being replenished in locations far outside the area of hydrologic impact for CAGRDR-related pumping. Rather than attempt to solve a large number of problems partially, a better result may be to focus on those areas of the aquifer which have severe supply and demand imbalances and try to resolve issues in those areas more completely.

**5. ADWR Should have a Robust and Extensive Comment Period, Before and After the Allocations are Recommended**

The current schedule allows only for ADWR to respond to the comments received, with an original date for doing so of November 21, 2012. Following this deadline, ADWR anticipates it will make revisions, adopt a final policy, and have application materials available by December 17, 2012. Given the importance of this issue, it may be best to include time for an additional round of comments and responses by stakeholders to assure maximum openness and transparency. For example, some stakeholders may desire to comment on the comments of others – either to agree or disagree. Stakeholders will want the opportunity to comment on the responses ADWR makes to the initial (and perhaps subsequent) comments.

Additionally, there should be a comment period after ADWR has made its initial recommendation for the reallocations following the submission of applications. Stakeholders should be given an opportunity to comment on the proposed reallocations as initially recommended by ADWR and to suggest changes and modifications.

**6. ADWR Should Ensure that Any Groundwater Allowances that Are Relinquished as Part of the Reallocation Process are Extinguished and Not Used for Additional Pumping**

ADWR’s proposal contains a provision requiring municipal providers with water supply designations that expire in 2021 or later to relinquish groundwater allowance credits in equal proportion to the amount of NIA water received. To the extent that any groundwater allowances are relinquished in exchange for NIA water, ADWR should extinguish those credits rather than allow them to be used by other providers to increase groundwater pumping.

**7. ADWR Should Clarify that Industrial Users Receiving an NIA Allocation Must Apply it to an Existing Use and Reduce Groundwater Pumping by That Amount**

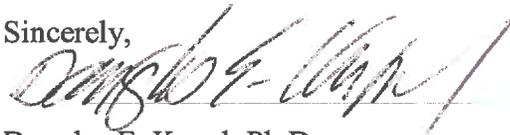
Although the creation of a separate pool of NIA water for industrial uses appears appropriate, it is important that ADWR apply the goal of improved aquifer management to these users as well. NIA water allocated to an industrial user should be used only to replace an existing use. The NIA water allocated should be used to “retire” that amount of use and the industrial users’ ability to pump groundwater should be reduced by an equal amount. This will result in reduced groundwater pumping. Priority should be given to those industrial users in proximity to locations in the aquifer that are currently subject to severe overdraft or are expected to be subject to severe overdraft based on modeling.

**8. Imposition of the Supply Availability Charge May Have Negative Consequences**

The “Supply Availability Charge” proposed by CAWCD may have profound negative implications for all water users in Arizona, putting aside questions of whether or not CAWCD has the authority to levy such a charge. The imposition of this fee will not only increase the cost of NIA water, but all water in Arizona. While the goal of “firming” the relatively unreliable NIA water to some higher level of reliability is noble, it is not one that the CAWCD should be undertaking at this time. The responsibility for firming the supply of NIA water, if acquired, should be on those entities that receive it. Although a program to increase the reliability of NIA supplies may have merit, it should be discussed through a process that involves all CAP subcontractors and contractors. CAWCD has other important and time-sensitive matters requiring its current attention, such as developing a form wheeling agreement with the Secretary of Interior, acquiring water supplies for CAGR, developing the next plan of operation for CAGR, and pursuing recovery planning. The collection of a Supply Availability Charge and creation of a reliability program for NIA water do not appear justified given these other more pressing needs.

Thank you for providing the City of Glendale the opportunity to submit comments on this important issue. Glendale appreciates consideration of its views now and throughout the reallocation process.

Sincerely,



Douglas E. Kupel, Ph.D.  
Environmental Program Manager

Cc: Craig Johnson, Executive Director Water Services Department  
Doug Kukino, Director, Environmental Resources  
Kathy Ferris, AMWUA



November 9, 2012

Ms. Michelle Moreno  
Arizona Department of Water Resources  
Second Floor  
3550 N. Central Avenue  
Phoenix, AZ 85012

**Re: NIA Priority CAP Water Reallocation Proposed Process and Evaluation Criteria,  
October 2012**

Dear Ms. Moreno,

The City of Goodyear appreciates the opportunity to comment regarding the Department's proposed procedural document for NIA CAP Re-allocation. The City believes that ADWR has a great opportunity to enhance water resource management through the NIA CAP re-allocation process. The re-allocation will have long-standing positive implications in providing renewable water supplies for entities that have significantly relied upon groundwater supplies and allow them to reduce and virtually eliminate groundwater pumping and aquifer overdraft.

The City of Goodyear agrees with the ADWR approach regarding the evaluation of each applicant's supply and demand imbalance and the amount of NIA renewable water supplies that could be re-allocated based on unmet demands. The City of Goodyear has significant water resource challenges and currently does not enjoy the volume of renewable water supplies i.e. SRP or CAP supplies that have become the main source of water supplies for many of the Phoenix Valley municipalities. The City's current designation of assured water supply (DAWS) expires in 2016 and the City will have significant unmet water demands before 2020.

The water resources goals of the City of Goodyear are to eliminate groundwater pumping and to only pump water supplies that have been recharged and stored within the aquifer. In fact, the City has not pumped groundwater within the last two years. Thus it has not needed to replenish excess groundwater through the GRD. The City understands that NIA CAP water is estimated to be available approximately 67% of the time due to its priority. The City has created a long term storage credit account and banked water that would be available to firm NIA CAP shortages.



2008



The City of Goodyear agrees that NIA water should be used to offset groundwater overdraft and provide renewable supplies for areas with limited groundwater availability based not only on quantity but quality for current and future water demands. However, the City feels that prioritizing the NIA CAP water for only entities that can take direct delivery of NIA water disenfranchises those entities that are current planning or working on direct delivery mechanisms and financing for CAP direct deliveries. This was very similar to the paradigm shift of large municipalities that purchased groundwater farms in the 1980's for future water supply needs who have now sold those water ranches as those municipalities successfully received additional allocations of renewable water supplies through the various water projects that include Plan 6 projects and Indian water settlements. The entities in need of NIA CAP water are in very similar happenstance to where the large municipalities were in the 1980's and would significantly benefit from additional renewable water supplies.

The City of Goodyear cannot currently take direct delivery of CAP water; however, it is diligently exploring all means whereby CAP water can be delivered to the City at the earliest possible time. It should be noted that all municipalities are dynamically different regarding population and timing of growth, financial wherewithal, and geographic locations, some of which allow for better access to CAP and other renewable water supplies like SRP. Not only is the City located over an area of the aquifer where the water quality is extremely poor with extremely high total dissolved solids, but unfortunately two separate superfund sites and a Water Quality Assurance Revolving Fund site make it very difficult and expensive to locally recharge and recover within these areas, especially if they interfere with the remediation remedy.

We thank you for the opportunity to comment on the proposed ADWR NIA CAP re-allocation and look forward to applying for this desperately needed renewable water supply.

Highest Regards,



Mark Holmes  
City of Goodyear, Water Resources Manager

JDM Partners, LLC

October 17, 2012

**Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue  
Second Floor  
Phoenix, AZ 85012

Re: Non-Indian Agricultural ("NIA") Priority CAP Water  
Reallocation Proposed Process and Evaluation Criteria dated  
October, 2012 ("Criteria")

Dear Ms. Ikeya:

On behalf of JDM Partners (JDM), I wish to express JDM's support for the Department's efforts in developing the Criteria for CAP Water Reallocation. The NIA water will be an important renewable water supply for the three-County area, and we appreciate the Department's thoughtful proposal for allocating this supply.

JDM is a partner in Douglas Ranch, a 33,810 acre Master Planned Community located in the Town of Buckeye, which does not have access to CAP M&I Subcontracts or to water from the Salt River system. With that in mind, we support the Department's efforts to focus the allocation of the Municipal Pool of NIA water on those communities that will need this water in the near term. This strategy will assist in ensuring that the NIA water supply is put to use quickly by communities that do not already have significant renewable water sources.

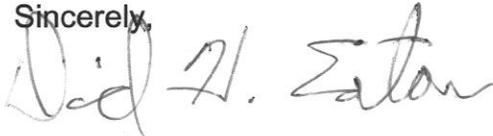
We also strongly support allowing CAGR D to participate in the Municipal Pool. A number of our developments are Member Lands in the CAGR D, and JDM has long supported efforts to strengthen the CAGR D. CAGR D clearly has a demand for water supplies for replenishment purposes. The need of Member Lands and Member Service Areas for CAGR D replenishment services already exists and continues to grow. CAGR D has been criticized for meeting its replenishment obligations, in large part, with excess CAP water. It is now time for CAGR D to enlarge its portfolio of long-term supplies to ensure that it can continue replenishing groundwater for its current and future members into the future.

There are a number of other reasons for supporting CAGR D's participation in the Municipal Pool. The CAGR D replenishment function has a very important

role in achieving the management goals of the Phoenix, Tucson and Pinal Active Management Areas, while allowing growth to occur in areas without access to renewable supplies. Further, because CAGR D undertakes replenishment and is not a direct provider of water supplies, CAGR D has more flexibility to manage the unpredictable availability of NIA water. Lastly, because CAGR D's members are located throughout all three Counties, an allocation of NIA water to the CAGR D benefits numerous communities and thousands of individual homeowners.

Thank you for the opportunity to comment on the Criteria. We are looking forward to continued participation in this important process of NIA water reallocation.

Sincerely,

A handwritten signature in cursive script that reads "David H. Eaton". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

David H. Eaton  
Partner



November 6, 2012

Sandra Fabritz-Whitney, Director  
Arizona Department of Water Resources  
3550 N Central Avenue  
Phoenix, Arizona 85012

**Subject: Comments Regarding the Reallocation of Non-Indian Agricultural (NIA) Priority CAP Water – Proposed Process and Evaluation Criteria**

Dear Director Fabritz-Whitney:

The Town of Marana Utilities Department has reviewed the selection criteria and proposed allocation process for the NIA Priority water that will be available in the near future. We are in agreement with the general guidelines and principals that ADWR has outlined as selection criteria to receive an allocation of this vitally important future water supply.

As you may know, the Town of Marana currently has a CAP M&I-priority allocation of 1,528 acre-feet per year (AFY), yet in 2011, we pumped approximately 2,100 acre-feet, making up the deficit with long-term storage credits. With the current rate of growth, coupled with build-out projections, our current allocation is already sufficiently less than what will be required to meet the Town's future water demands with renewable water supplies.

The Town of Marana is in a unique position to qualify for this re-allocation based upon several factors. Marana's location in the Tucson AMA basin is advantageous from a hydrological standpoint. Our aquifer is rising and we have physically available groundwater in the event of a shortage. All of our wells have already been designated as recovery wells, which affords us the flexibility to pump our recharge credits at each well. All of our CAP water is currently recharged at the Lower Santa Cruz Recharge Project; with long-term storage credits stored at the Avra Valley Recharge Project. This provides the necessary local infrastructure to readily accept and recharge an NIA allocation. We have also made an effort to secure effluent credits to reduce our demand for groundwater in the event of a possible shortage. In addition, our water rate structure is a scalable model, where we are able to administer resource acquisition fees for new supplies of water as they become available. Finally, the Town's 100-year Assured Water Supply designation expires in 2017, making the criticality of access to this water even more important.

The Town of Marana understands that there will be many requests for this allocation of renewable water supply, but we are hopeful that our existing water supply portfolio as well as the projected population growth within our service area will be taken into consideration as the process moves forward. Applying the above-mentioned criteria, we are confident that the Town of Marana can demonstrate a critical need for this water supply.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Kmiec". The signature is fluid and cursive, with a long horizontal stroke at the end.

John P. Kmiec  
Utilities Director  
Town of Marana

CC: Gilbert Davidson, Del Post, Frank Cassidy, Tim Ensign, Ann Meaders, Todd Henderson – Town of Marana

November 8, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**Re: NIA Reallocation Proposed Process and Evaluation Criteria**

Dear Ms. Ikeya,

The City of Mesa appreciates the opportunity to comment on ADWR's proposed process for reallocating the remaining NIA water. Mesa recognizes this as an important step in managing Arizona's critical water resources and supports ADWR's goals of reducing groundwater overdraft. Mesa also supports the comments submitted by AMWUA, but would like to comment specifically on the following:

1. NIA water should be reallocated first to those that can use it directly, and not through a recharge/recovery program. Where possible, the majority of this water should be allocated with consideration to the goals of reducing groundwater overdraft and helping address areas with existing demand and limited physically available water. Spreading this water out over a large number of users does little to solve any real issues.
2. Where this water is reallocated for the specific purpose of recharge/recovery, or in the case of CAGR, for replenishment, the NIA reallocated water should be required to be recharged in the same sub-basin where the recovery or pumping will occur. The alternative only further complicates sustainable groundwater management by mistaking satisfaction of legal availability of supplies with actual physical availability. Both are necessary.
3. The Supply Availability Charge proposed by CAWCD should be explained in a more transparent manner, and possibly eliminated. Mesa questions CAWCD's authority to implement such a charge, and this extra fee is not supported by any clear plan or directly attributable benefit. Additionally, this arbitrary charge will likely raise the price of this water so much that it makes it unaffordable to those same water providers that are most likely to be faced with groundwater availability issues.
4. The timeline and comment periods should be extended beyond the 2013 proposed reallocation. Due to the profound impact this reallocated water can make on water management for the State, ADWR should take the necessary time to evaluate multiple scenarios and open it up to public review or comment as reallocation recommendations are made.

Even though under the current criteria it appears that Mesa would be ineligible for any of this reallocated water, the City nonetheless has a significant interest in a beneficial and reasonable reallocation. If this water is made available to providers that can directly take and use this water as a

direct substitute for groundwater, all parties benefit as a result of the future availability of groundwater supplies in times of shortage. This is especially applicable to areas that are already restricted with limited physically available groundwater. Unfortunately, if these supplies are allocated in a manner which addresses only availability of supplies from an accounting perspective without consideration of the physical impacts, than the State will have missed a great opportunity to implement some sustainable water management practices.

Sincerely,

A handwritten signature in cursive script, appearing to read "Colette A. Moore".

Colette A. Moore

Water Resources Advisor

CC: Kathryn Sorensen, City of Mesa, Water Resources Department Director  
Kathy Ferris, AMWUA



November 6, 2012

Ms. Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, AZ 85012

**Re: Comments on Draft NIA Reallocation Process**

Dear Ms: Ikeya:

The Metropolitan Domestic Water Improvement District (District) would like to comment on the Arizona Department of Water Resources' (ADWR) draft process for allocating the Non-Indian Agricultural (NIA) Priority Central Arizona Project Water. We are pleased to see ADWR moving forward with the allocation of NIA Water.

The District does not support the ADWR proposal to use Year 2020 as the year for applicants to calculate water demand. The District recommends 2020 be replaced with 2030 or a later year given that the housing industry is not likely to fully recover until after 2020. We believe using 2020 would cause a disadvantage to municipal providers to meet future water demands given the status of the housing industry.

The District also finds requiring the applicant to complete a supply and demand balance to be equitable if it is on a per service area basis consistent with information on record with ADWR's Assured Water Supply (AWS) program. The District has two separate and non-contiguous service areas that each has a Designation of Assured Water Supply of 13,302 acre-feet and 1,013.8 acre-feet. The combined 100 year demand of 14,315.8 acre-feet for the two service area exceeds the District's available CAP allocation of 13,460 acre-feet. The 855.8 acre-foot of difference would be mitigated by recharge of part of the District's effluent supply. The District would not seek an NIA allocation for either of these two service areas because full built out of the service areas will not occur before 2020 or 2030.

The District does have a third service area acquired in late 2010 that is 90 percent composed of member lands, but only 10 percent built out. Since the District's CAP water allocation must offset the 100 year water demand issued under the Designation of Assured Water Supply for the other two service areas, the District needs an NIA supply for this service area in accordance with the demand year selected by ADWR. The District recommends that ADWR's balance process recognize issued long-term demands under the Assured Water Supply Program and then subtract renewable supplies, otherwise ADWR will be penalizing water providers who have conducted long-term water resource planning consistent with ADWR rules and policies.

Lastly, the District supports a reduction in applicant's Groundwater Allowance account for the service area that they obtain an NIA reallocation. However, the District believes the formula

Ms. Deanna Ikeya  
November 6, 2012  
Page 2 of 2

needs revision to reflect how the groundwater allowance was established. For example, in the Tucson Active Management Area if an applicant submitted a Designation of Assured Water Supply by a certain date the volume calculated for Groundwater Allowance was the current pumpage times 15 years. The proposed formula is disproportionate in two ways. First, the proposed formula assumes the NIA volume is equal to the annual pumpage used to calculate the Groundwater Allowance. A ratio of the two should be used instead. Secondly, the proposed formula uses 100 years while the groundwater allowance was for a lesser number of years. Thus, again a ratio of the years should be used.

Any Groundwater Allowance credits relinquished to ADWR should not be reallocated by ADWR under the Assured Water Supply Program to other AWS applicants, but reserved to meet the AMA safe yield goal.

Please feel free to contact me at (520) 575-8100, if you have any questions.

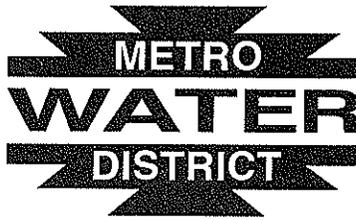
Sincerely

A handwritten signature in black ink that reads "Michael Block". The signature is written in a cursive style with a large, looping initial "M".

Michael W. Block  
Water Resources Manager

MWB:mwb

c: Mark Stratton  
Warren Tenney



C: Tom Me

Marie

November 8, 2012

Mr. David Modeer  
General Manager  
Central Arizona Project  
P.O. Box 43020  
Phoenix, Arizona 85080-3020

**Re: Comments on Costs for Non-Indian Agricultural (NIA) Priority Central Arizona Project Water**

Dear Mr. Modeer:

The Metropolitan Domestic Water Improvement District (District) would like to comment on the proposed costs and payment for Non-Indian Agricultural (NIA) Priority Central Arizona Project Water. We are pleased to see the Arizona Department of Water Resources moving forward with the allocation of NIA Water.

The District does not support the CAP proposal for a Supply Availability Charge and strongly recommends CAP eliminate this charge. The District recognizes that the NIA supply has availability constraints and that is why the District will have backup renewable supplies as required by the Arizona Department of Water Resources to meet water demands during those supply interruptions. Therefore, the District deems the proposed charge as unnecessary and burdensome. We believe this responsibility for having necessary supplies to meet water demands is that of the water provider and not that of CAP's.

Lastly, the District supports the two payment options proposed by CAP and would like to recommend a third option. A third payment option could be the transfer of recharge credits by a successful applicant to CAP for full or partial payment. We also support the payment by all applicants outside of the three-county CAP service area regarding the Back Property Tax Equivalency Charge otherwise a disparity will result to the taxpayers in Maricopa, Pinal and Pima Counties.

Feel free to contact me at (520) 575-8100, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark R. Stratton".

Mark R. Stratton, P.E.  
General Manager

MRS/mwb

Phone: (928) 453-5150

*Law Offices*

Fax: (928) 484-2223

*of*

*Maureen Rose George, P.C.*

*2000 McCulloch Boulevard N., Suite B*

*Lake Havasu City, AZ 86403*

*E-mail: mrglaw1@frontier.com*

November 7, 2012

**VIA U.S. MAIL AND ELECTRONIC MAIL**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, AZ 85012

**RE: Proposed NIA Reallocation Process**

Dear Ms. Ikeya:

Set forth below are the comments of the Mohave County Water Authority ("MCWA") in regard to ADWR's proposed NIA reallocation process. The comments are a result of a review of the ADWR September, 2012 notice, the October 2 meeting and the responses posted by CAWCD and ADWR to AMWUA's September 27, 2012 letter.

1. Reliability

- a. Better information is needed in terms of how ADWR will count this water when it is analyzing assured and adequate water supply applications.
- b. Need continually updated projections on the reliability of this water.
- c. Should be able to apply for 133% of projected needs given 67% reliability of this water.

2. Area

- a. To echo comments made at the October 2 meeting, MCWA supports ADWR's stated intent to set aside a portion of this water for outside CAP use and agree with the stated methodology for arriving at the outside CAP number.
- b. Object to the delay to 2021; not ALL outside CAP applicants for this water require infrastructure to put it to use, e.g., MCWA could access the water today if it was available.

*"As you drink the water, remember the spring."*

- Chinese proverb -

c. Strongly object to the proposed prohibition on use of this water for firming purposes. WRDC numbers clearly show the most critical short term need for on river P4 users is shortage year supplies because these users have no access to groundwater or non-Colorado River surface water supplies. Recharge and recovery is a beneficial use of water and if need exists for same this NIA water should be made available to meet it.

d. If ADWR is not going to establish criteria at this time for the 2021 outside CAP reallocation, it should be clearly stated that NONE of the criteria for the 2012 process will be considered as precedent for the 2021 criteria. ADWR should consider adopting 2021 criteria now to enable better planning by those potential applicants outside the CAP area.

e. It is our position that the Basin Study is more accurate in terms of the projected supply and demand outside the CAP service area though we do support ADWR's projected blending of these projections and the WRDC projection for the limited purpose of this NIA reallocation.

### 3. Financing

a. Generally speaking, pricing seems aimed at keeping smaller users out of the "market."

b. Some or all of this "water" has for all practical purposes been put to use and paid for in prior years; should be some offset for same.

c. Should be offset for lower reliability of this water.

d. Strongly object to the supply availability charge, especially to the extent that it appears ADWR would support the policy of "buying off" of on river users NOT to use their water. This is a major policy shift and ADWR should in no way be supporting same without an extensive outreach and stakeholder process to consider all of the implications of such a policy. We also share AMWUA's questions regarding the authority of CAWCD to assess such a charge.

e. While MCWA has no problem with paying an in lieu amount for the "administration" of the CAP, we do object to being assessed for power and canal related infrastructure costs unless we are using same.

f. Consideration should be given to reviewing existing financing statutes regarding CAWCD and whether they need to be revised. There have been many changes to CAWCD's operation, and its customers use of water, since 1983.

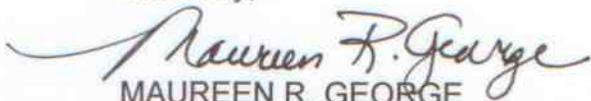
4. General Comments

a. Concerned about the limited time given to stakeholders to understand and meaningfully participate in a process that meets the needs of all participants. Do appreciate the extension for comments to November 9.

b. How will availability of excess CAP water affect CAGR's supply and demand numbers? Concerned that process seems skewed toward CAGR; for all practical purposes it is "firming" of groundwater supply while at the same time ADWR is proposing a prohibition on use of this water for "firming" of surface water supplies.

Thank you for the opportunity to comment and look forward to ADWR's response to the concerns raised by MCWA and others with the proposed process and criteria.

Sincerely,



MAUREEN R. GEORGE

GENERAL COUNSEL – MOHAVE COUNTY WATER AUTHORITY

c: MCWA Board of Directors

## **New Harquahala Generating Co. LLC**

November 9, 2012

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

### **Re: Comments on NIA Reallocation**

Dear Ms. Ikeya:

Thank you for the opportunity to provide written comments concerning the Arizona Department of Water Resources' (Department) draft policy on the re-allocation of the 96,295 acre-feet (af) of Non-Indian Agricultural Priority ("NIA") Central Arizona Project ("CAP") water pursuant to the Arizona Water Settlements Act of 2004. As a current user of a combination of groundwater and CAP Excess Water, New Harquahala Generating Co. LLC ("NHGC") is very interested in obtaining a sub-contract allocation of this water.

We appreciate the efforts that the Department has made in preparing the draft policy and conducting public outreach on the process. We believe that NHGC fits well within the parameters of the present draft policy and the goals sought to be achieved, and we would like to make our voice heard on this subject, particularly in light of the many comments that we anticipate the Department will receive from other potential users.

NHGC operates an electrical generation facility in the Harquahala INA basin. This 1,080 megawatt natural gas-fired, combined-cycle facility, located entirely within Maricopa County, generates enough power for roughly 600,000 homes and has established access to the CAP canal. We are very proud of the fact that NHGC operates one of the cleanest and most efficient electrical generation facilities of its type in the United States. The facility was built with state-of-the-art generators and catalytic reduction and zero liquid discharge systems, designed to reduce water usage and lower emissions. NHGC is exactly the type of industry intended to be supported by Arizona water law and policy.

NHGC operates under a Certificate of Environmental Compatibility issued by the Arizona Corporation Commission ("ACC") in June 2000. The application for this certificate was filed with the ACC before January 1, 2000. NHGC thus qualifies for certain rights to use groundwater within the Harquahala INA pursuant to A.R.S. § 45-440(B). NHGC also operates under a Special Use Permit issued by Maricopa County in November 2000. Both the Certificate of Environmental Compatibility and the Special Use Permit recognize NHGC's rights to access groundwater under the statute, but require NHGC to attempt to use CAP water as its "primary" source.

NHGC takes this obligation to use CAP water seriously, using CAP Excess Water pool consistently throughout its operation. NHGC uses as much CAP water as is practically feasible, but is limited by operational constraints and recently, by the diminishing quantity of Excess Water available. With the common expectation that the Excess Water pool will continue to be limited, and at times, entirely unavailable, the opportunity to receive an allocation of the NIA sub-contract water represents the only real opportunity to insure that NHGC will continue to use CAP water as its primary source and continue its commitment to use groundwater from the Harquahala INA only as a secondary resource.

The stated goal of the Department is to use the NIA water effectively to reduce groundwater overdraft in the near term. As an existing user capable of using this NIA water directly, and immediately, in place of groundwater, this goal fits our situation well. Therefore, our comments on the proposed policy are limited to the following items:

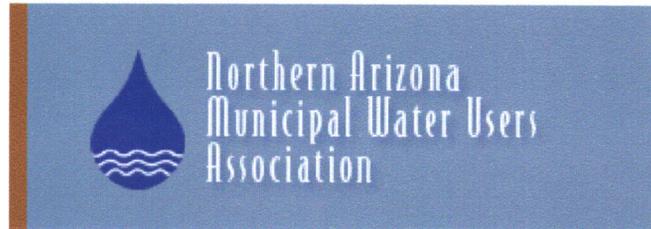
- We believe that the demand for NIA water by the Arizona's industrial sector will far outreach the 12,000 af currently allocated to this sector by the Department. While we appreciate that there are many competing users, all of which might suggest that they need more water, the nature of the NIA water (being subject to an increasing likelihood of shortage) makes it uniquely suited to near-term industrial use. Using this reallocation supply to support industries contributing to the Arizona economy makes sound economic sense consistent with the realities of the limitations of this supply. Therefore, we request that the Department consider expanding the pool to better serve the needs of our industrial community. We believe this request will be borne out by the large volume of water requested by the industrial sector, and its demonstrated ability to put this water to use immediately, while reducing the demand for groundwater. Certainly, we request that the Department resist any attempt to reduce the size of this pool.
- We believe NHGC meets all of the requirements set by the Department. We are within the CAP service area, have the infrastructure and financial ability to make immediate, direct use of this water, and have a demonstrated commitment to use CAP water in lieu of groundwater whenever feasible. Therefore, we request that the Department carefully consider any attempt to add additional restrictions on either the NIA application criteria or the selection process that would reduce NHGC's and other industrial users' ability to compete effectively in this reallocation process.

We look forward to your response to comments, finalization of the reallocation policy and the application and selection process. If there is any information we can supply in the course of your deliberations, please contact us.

Sincerely,



Dean E. Motl, Plant Manager



October 5, 2012

NAMWUA Members:

Town of ChinoValley

Town of Clarkdale

City of Cottonwood

City of Flagstaff

Town of Payson

City of Prescott

Town of PrescottValley

City of Sedona

City of Williams

---

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

Subject: Non-Indian Agricultural Priority Central Arizona Project Water  
Reallocation Proposed Process and Evaluation Criteria

Dear Ms. Ikeya,

NAMWUA member communities have been actively engaged in planning for their future water requirements for many years. The ability to purchase CAP water for use or exchange is an important factor as alternatives are evaluated in these water planning processes. Currently, the Bureau of Reclamation is conducting the North Central Arizona Water Supply Feasibility Study and the Central Yavapai Highlands Water Resources Management Study. Both studies consider the use of a renewable water supply as an alternative to meet regional water needs. The work on the North Central Study has been on-going since 2000 and the Central Yavapai Highlands since 2007.

In February 2005, NAMWUA submitted a letter to ADWR expressing an interest in obtaining a portion of the reallocation water, this interest remains strong. Our association applauds ADWR for considering the future water requirements of these areas outside the CAP service area and firmly supports the inclusion of offering 17,333 AF of water to these applicants in 2021.

We have serious concerns about the pricing methodology proposed by CAP. We have consistently heard during the recent processes of SWAG, ADD Water and WRDC that water providers within the CAP service area will not stand for paying for water delivery projects needed for rural areas located outside the CAP service area. That is understandable. Yet, it is obvious by proposing to charge customers outside the CAP service area the Back Capital Charges Component and the Back Property Tax Equivalency Component that water users outside the CAP service area are expected to pay a portion of the debt service and other costs associated with the CAP delivery system in addition to the cost to construct their own water delivery systems.

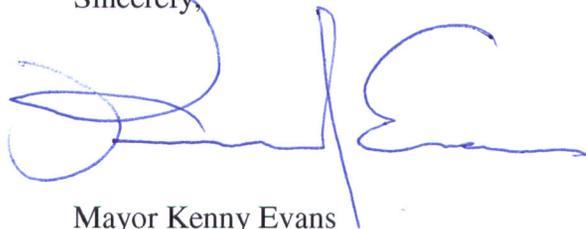
We recognize Arizona Revised Statutes § 48-3715.B. However, we strongly believe this was intended for future customers that would be using the CAP delivery system or may be obtaining the water and exchanging it with someone inside the CAP service area.

We also question the date on which the Back Capital Charges Component is based. Our understanding is the Agriculture subcontracts were relinquished in 2004. If this is the case, and the subcontractors paid the repayment obligation until that time, calculating this payment back to 1993 results in a double billing.

Finally, Reclamation is concurrently conducting an EIS with the feasibility study for the Coconino Plateau and we can assume they will be doing the same as the Central Yavapai Highlands work moves forward. These efforts should suffice to meet NEPA requirements or they can at least serve to reduce the cost if an additional EIS is going to be required.

Thank you for this opportunity to comment,

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kenny Evans', with a stylized flourish at the end.

Mayor Kenny Evans  
Chairman of the Board of Directors  
Northern Arizona Municipal Water Users Association

## Deanna K. Ikeya

---

**From:** Saletta, Philip [psaletta@orovalleyaz.gov]  
**Sent:** Wednesday, November 07, 2012 4:25 PM  
**To:** Deanna K. Ikeya  
**Cc:** Michelle A. Moreno  
**Subject:** NIA CAP WATER - COMMENTS

**Categories:** Red Category

Ms. Ikeya - Please accept these comments and questions on behalf of Oro Valley Water Utility regarding the Non-Indian Agricultural Priority Central Arizona Project Water Reallocation.

### Comment 1 - Schedule

The current schedules requires application for Non-Indian Agricultural Priority Central Arizona Project (NIA CAP) water to be submitted by February 18, 2013. This date should be extended to allow for adequate discussion of the comments received and for water providers to have time to evaluate this supply with the final conditions and price that would be placed on this water. I suggest that a new date be considered so it allows water providers to brief their Councils, Boards or Commission and acquire approvals and authorization to apply for this water. In addition, many water providers will need time to develop a financial plan and budget to pay for this water. I suggest that a new deadline be considered for application. I suggest that it extended to at least April of 2013.

### Comment 2 - Selection Criteria

The Selection Criteria proposed seems to benefit those that have not acquired or developed renewable water resources in the past. Oro Valley Water Utility has taken steps to reduce its reliance on ground water and has acquired and developed the renewable water resources to do so. I suggest that the selection criteria not be biased toward just those entities with a shortfall. If there is another selection criteria methodology that could be considered this should be discussed.

### Comment 3 - Groundwater Allowance Account Relinquishment

Oro Valley is concerned about the proposed relinquishment of any portion the Groundwater Allowance Credits. The amount of groundwater in a providers Groundwater Allowance Credit Account (GWA) was determined to allow entities to use this water either in the short term or over the long term to meet their supply requirements. What is the basis and authority to reduce the GWA by an amount of NIA CAP water that is acquired? In addition, Oro Valley has added to its GWA through the purchase of Groundwater Extinguishment Credits. Will these also be reduced? Also, there is concern for the calculation and that the Groundwater Allowance Credits was calculated over a shorter period of time yet it is being impacted for the 100 year period of NIA CAP water allocated. Finally, I do not believe prior CAP water reallocations have been subject to a relinquishment of Groundwater Allowance Credits.

### Comment 4 - Pricing

Oro Valley supports the fair payment for the 9(d) Debt Component and Back Capital Charges for the NIA CAP water to be included in the per acre foot cost. However, Oro Valley does **not** support the Supply Availability charge of \$1000 per acre foot and this amount should **not** be included in the per acre-foot charge. I understand that this was intended to provide for enhancing the reliability of the NIA CAP water. However, there is no specific plan for this at this time. If enhancement of reliability is something that water providers that acquire the NIA CAP water reallocation want to do in the future, perhaps it can be discussed at a later time and after a plan is developed.

We look forward to your response and discussion of these comments as we proceed with the reallocation process. Thank you for the opportunity to comment and please let me know if you have any questions.

Philip C. Saletta, P.E.  
Town of Oro Valley  
Water Utility Director

11000 N. LaCanada Dr.  
Oro Valley, AZ 85737

Office:(520) 229-5010  
Cell: (520) 631-7345  
Fax: (520) 229-5029



## City of Peoria

### *Public Works-Utilities Department*

8401 West Monroe Street, Peoria, Arizona 85345

Ph: 623-773-7286 Fax: 623-773-7291

November 8, 2012

VIA E-MAIL AND U.S. POSTAL SERVICE

Ms. Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
Second Floor  
3550 N. Central Avenue  
Phoenix, AZ 85012

RE: COMMENTS ON PROPOSED NIA WATER REALLOCATION CRITERIA

Dear Ms. Ikeya:

The City of Peoria has reviewed the proposed criteria for the re-allocation of Non-Indian Agricultural (NIA) water to be delivered via the Central Arizona Project (CAP) canal. The City holds a Designation of Assured Water Supply which runs through 2025, and has been a Designated provider since 1997. The City has moved from total reliance on groundwater in its original 1997 Designation to an overwhelming reliance on replenishable supplies in 2012. The City has pumped less than one acre-foot of groundwater since 2009, meeting its needs with a combination of Colorado River water delivered via the CAP canal, Salt-Verde River water delivered via the Salt River Project system, and water recovered from storage via wells. The City has an extensive program for the underground storage of water, and annually stores far more water than is recovered. Through these actions, the City has consistently demonstrated its dedication to the goals of the Groundwater Management Act and to its vision of a sustainable water supply designed to meet the needs of Peoria for centuries to come. In this spirit, the City offers the following comments on the proposed re-allocation criteria for NIA water.

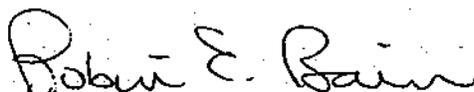
The City is most concerned with the proposed requirement that Designated providers relinquish a proportional amount of their groundwater allowance for every acre-foot of NIA water allocated. The availability of NIA water is estimated at only 67% in any given year, and this availability can be envisioned as declining in future years as climatic changes adversely impact flows in the Colorado River. Conversely, the groundwater allowance represents an amount of water available indefinitely into the future, less susceptible to the influence of climate change. Groundwater is the City's hedge against sustained drought, which is why the City is preserving it by not pumping it. To give up this protection against future shortages in return for a less reliable supply is not effective water resources planning. The City notes that only providers with a Designation—the reward for striving for a sustainable water future—are to be penalized by loss of their groundwater allowance. Furthermore, the City understands that the groundwater amounts inherent in the relinquished allowances would ultimately become available to other users, such as developers seeking Certificates of Assured Water Supply based on groundwater pumping. This is antithetical to the goals of the re-allocation process in that groundwater overdrafting would be perpetuated, not reduced. The City recommends that the Department delete this proposed requirement.

The City is also concerned by the proposed requirement that an imbalance between water supply and demand by 2020 be demonstrated. The City notes that this requirement eliminates all providers with a Designation which expires in 2025. The City believes that this date is arbitrary, and does not reflect the best projections of future water supply/demand imbalance. Work done by the U.S. Bureau of Reclamation, as well as the report from the recently concluded Water Resources Development Commission, point to a later date for serious divergences between supply and demand. This would seem to apply to much of Arizona, including the three-county CAP service area. The City would point to the years of 2060, or 2035, or even 2025 as better mileposts for assessing water supply/demand imbalances. If any date to demonstrate a supply/demand imbalance is to be used at all, it should not be a date which rewards those who have done the least effective water resources planning. Furthermore, it may be very difficult for providers who can demonstrate such an imbalance by 2020 to have ready the necessary infrastructure by 2020. The City recommends revising the 2020 target year to a more realistic date, or dropping the requirement altogether.

The Arizona Municipal Water Users Association (AMWUA) has prepared a detailed set of comments on the proposed criteria for the NIA water re-allocation process. The City is in agreement with these comments, which are focused on the goals of reducing groundwater overdrafting, achieving sustainable water uses, and better aquifer management. The City strongly recommends that the Department carefully consider the comments offered by AMWUA and revise the proposed criteria accordingly.

The City is ready to work with the Department and other water users to develop the most equitable set of criteria for the NIA water re-allocation process. We look forward to reviewing the next set of proposed criteria once the revisions have been made. If you have any questions, please contact Alan Dulaney, Water Policy Administrator, at (623) 773-7357.

Sincerely,



Robin E. Bain, P.E., BCEE  
Water Resources and Environmental Manager

C: Kathy Ferris, AMWUA



**City of Phoenix**  
OFFICE OF THE CITY MANAGER

November 9, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**Subject: Non-Indian Agricultural Priority Central Arizona Project Water Reallocation Proposed Process and Evaluation Criteria Dated October 2012**

Dear Ms. Ikeya:

The City of Phoenix (Phoenix) commends the Arizona Department of Water Resources (ADWR) for initiating the process for reallocating Central Arizona Project (CAP) Non-Indian Agricultural Priority Water (NIA Water) and for providing interested parties with an opportunity to comment on the Proposed Process and Evaluation Criteria. Phoenix supports ADWR's stated goals of reducing groundwater overdraft, providing an additional source of water to areas with limited physical availability of groundwater and meeting current and future water demands. However, there are a number of issues about the proposed process and criteria that merit further consideration, many of which are described in the letter on this subject submitted by Kathleen Ferris on behalf of the members of the Arizona Municipal Water Users Association (AMWUA). In addition to the comments provided in the AMWUA letter, Phoenix offers the following comments about the proposed process and evaluation criteria for consideration by ADWR.

**1. The proposal to reallocate the full M&I provider pool (51,962 AF) in the 2012 phase is problematic.**

It is likely that some providers who need water will be unable to meet the proposed criteria – specifically the requirement to demonstrate the finances and planning necessary to make use of NIA Water by 2020. Like the pool reserved for use outside of the CAP service area, a portion of the M&I provider pool should be reserved for the 2021 phase of the reallocation to “allow for the additional planning and financing that may be required to utilize this water supply.”

In addition, Phoenix and other municipalities have historically expressed an interest in NIA Water for the purpose of drought mitigation. Availability of NIA Water for this purpose would reduce reliance on groundwater mining for offsetting future shortages (thus satisfying one of ADWR's primary goals for the reallocation). ADWR's proposed process and criteria effectively eliminate the possibility of using NIA Water for drought mitigation within the CAP service area. Therefore, Phoenix proposes that drought mitigation be included in the criteria for reallocating NIA Water during subsequent reallocation phases. By 2021, ADWR and municipal providers within the CAP service area will have a clearer understanding of (1) how credits accrued by the Arizona Water Banking Authority will be used to mitigate CAP shortages, and (2) what additional water resources will be needed by municipal providers to mitigate shortages of non-CAP supplies.

**2. ADWR's stated goals for the reallocation could conflict with each other.**

Making NIA Water available to meet future water demands and/or to provide an additional source of water to areas with limited physical availability of groundwater could actually have the effect of increasing groundwater overdraft in an Active Management Area (AMA) or within a sub-basin of an AMA. Because the NIA Water will not be available at all times, an entity receiving an allocation could propose to use groundwater as a full or partial supplement to the NIA Water supply in support of future growth, thus increasing groundwater overdraft. The proposed criteria also indicate that the NIA Water could be replenished or stored and recovered "in a manner consistent with the water management goals for the AMA." This requirement is not strong enough to prevent localized groundwater overdraft. Therefore, ADWR should consider strengthening its criteria so that, at a minimum, any reallocation of NIA Water cannot increase groundwater overdraft in an AMA or within a sub-basin of an AMA. The same criteria should also apply to reallocation of NIA Water outside the CAP service area.

**3. Plans for the use of revenues generated by a Supply Availability Charge are not sufficiently defined.**

The pricing methodology proposed by CAP includes collection of a Supply Availability Charge. While the concept of improving the reliability of the NIA Water is laudable, CAP has not provided a sufficient description of how the revenues generated by this charge will be used and how that use will increase the availability of the NIA Water supply. Supporting such a significant charge is difficult based on a "concept level estimate," as described by CAP. Without additional analysis and documentation that more clearly demonstrates the benefits of collecting this charge, it is difficult to support it.

**4. The ability to provide additional comment appears to be limited.**

The proposed process indicates that ADWR will make its responses to the comments it receives available on November 21, 2012, and will then make the final adopted reallocation policy and application information available on December 17, 2012. This schedule implies that there will not be a final draft policy available for review and comment by the public. Given the importance of this process and the anticipated level of comments that ADWR is likely to receive on the proposed process and evaluation criteria, Phoenix respectfully requests that ADWR prepare and distribute a final draft reallocation policy for public review and comment prior to formally adopting the reallocation policy.

Phoenix appreciates the opportunity to provide comments in such an important process. Please let me know if you have any questions or need additional clarification of our comments.

Sincerely,



Clifford A. Neal, P.E.  
Water Resources Advisor  
City of Phoenix

cc: Tom McCann, Central Arizona Project  
Jerome Miller, City of Phoenix



7501 E. Civic Circle  
Prescott Valley  
Arizona 86314

October 17, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

Subject: Proposed Reallocation of Non-Indian Agricultural (NIA) Central Arizona Project Water

Dear Ms. Ikeya:

The Town of Prescott Valley (Town) is one of two large providers in the Prescott Active Management Area serving water to approximately 45,000 people. The Town is currently developing alternative water supplies to meet the needs of its citizens and to address the groundwater overdraft in the Prescott Active Management Area (AMA). The Prescott AMA is the only initial AMA with a Legislated safe-yield goal but without access to the Central Arizona Project's (CAP) replacement water supply.

The Town supports the Arizona Department of Water Resource's proposal to reserve 17,333 acre-feet of Non-Indian Agricultural CAP water for potential reallocation to water users outside of CAP's service area in 2021. Setting aside approximately 1% of the CAP water supply is a good first step toward addressing the long-term water needs in greater Arizona, but it is a fraction of the total needed. We hope that this first step indicates a long-term commitment toward addressing those needs.

The Town also echo's the concerns outlined by the Northern Arizona Municipal Water Users Association about the proposed pricing methodology and looks forward to working with the various stakeholders to resolve these issues.

Sincerely,

John Munderloh  
Water Resources Manager



Office of the City Manager  
201 S. Cortez Street  
Prescott, AZ 86303  
(928) 777-1380

---

November 8, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

Re: Non-Indian Agricultural Priority Central Arizona Project Water Reallocation; Proposed Process and Evaluation Criteria

Dear Ms. Ikeya:

The City of Prescott appreciated the October 2, 2012, presentation on this topic hosted by the Arizona Department of Water Resources (ADWR). The City further understands that additional comments may be submitted; ours are provided herein.

We note written communication dating back to at least January 2003, specifically a letter sent by Prescott to Senator Jon Kyl. That correspondence shared the view that the need for this reallocation water extends beyond the Phoenix, Pinal, and Tucson Active Management Areas (AMA). Northern Arizona communities, including those within the Prescott AMA, continue to forecast significant shortfalls for the future. Over the years, the City of Prescott has made measurable efforts to reduce reliance on AMA groundwater supplies. We have additionally worked actively with Northern Arizona Municipal Users Association and the Yavapai County Water Advisory Committee on regional water issues. As you may also know, Prescott is one of fifteen stakeholders in the U.S. Bureau of Reclamation (Reclamation) process known as the Central Yavapai Highlands Water Resources Management Study. This assessment began in 2007 and includes examination of renewable water supplies for the purpose of transportation.

As mentioned by the City's representative on October 2nd, the forethought and efforts of ADWR extended to rural Arizona in the subject process are to be commended. Reallocation of 17,333 acre-feet for applicants outside of the CAP service area in year 2021 would provide crucially needed resource, and enable more detailed planning as to the highest and best use of it.

Two items remain of serious concern in the reallocation proposal: (1) the pricing methodology; and (2) the structure of the reallocation process (Number 6). The pricing concern relates to the Back Capital Charges Component and the Back Property Tax Equivalency Component. It is becoming evident that in general those charges should not apply outside the CAP service area (although there may be some specific cases where they should). The pricing methodology currently proposed warrants further examination.

Page 2

Non-Indian Agricultural Priority Central Arizona Project Water Reallocation; Proposed Process  
and Evaluation Criteria

November 8, 2012

The second item is how this water can be used directly or through, "...exchange for other locally available surface water supplies...." As you are aware, the City purchased both Watson and Willow Reservoirs in 1998. The question is, What other local surface water supplies may qualify for exchange? The intent of exchanges in this proposal needs to be further addressed by ADWR and other parties specifically interested in this potential renewable quantity.

Thank you for considering the perspective of the City of Prescott.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig McConnell". The signature is fluid and cursive, with a prominent loop at the end.

Craig McConnell  
City Manager

# Brownstein | Hyatt Farber | Schreck

Carlos D. Ronstadt  
Attorney at Law  
602.382.4055 tel  
602.799.0755 cell  
602.382.4020 fax  
cronstadt@bhfs.com

March 29, 2012

Mr. Michael J. Lacey, Deputy Director  
Ms. Perri Benemelis, Manager, Colorado River Management  
State of Arizona, Department of Water Resources  
3550 North Central Avenue  
Phoenix, Arizona 85012

Re: Reallocation of Non-Indian Agricultural ("NIA") water pursuant to Section 104(a)(2) of the 2004 Arizona Water Settlements Act (P.L. 108-451)

Dear Mike and Perri:

Thank you for meeting with Brad Ross of my client, Resolution Copper Mining ("RCML"), and me on February 27<sup>th</sup> to discuss the reallocation of NIA water. Pursuant to your suggestion, I'm writing this letter to the Department on behalf of RCML to inform the Department of Water Resources about RCML's long-term water needs for its Resolution copper mining project near Superior, Arizona. We are also taking this opportunity to offer our suggestions about several of the criteria that the Department may wish to consider as it develops its policy and allocates the NIA water in accordance with Section 104(a)(2) of the 2004 Arizona Water Settlements Act (P.L. 108-451).

RCML currently estimates that it will need 20,000 acre-feet of water each year for the anticipated 50-year life of the Resolution Project. As we discussed, this water will be "make-up" water, meaning that it will be used to replace water that is consumed or lost during the mining and concentrating of copper ore by RCML. We emphasize that at this point in time, the estimated water demand for the Resolution project is just that—an estimate, and that it may very well change as the design of the mine is finalized and mining begins. Nevertheless, this estimate compares favorably to the use of water by other copper mines in Arizona.<sup>1</sup>

RCML is aware that any reallocated NIA water will retain its non-Indian agricultural delivery priority. See Section 104(a)(3) of the 2004 Arizona Water Settlements Act. As a consequence, any NIA water that is reallocated to RCML will be subject to curtailment when there is a shortage condition on the Colorado River. Our review of information that is publicly available from the Central Arizona Water Conservation District, the Arizona Water Banking Authority and your Department suggests that over the 100-year life of a water delivery contract for 20,000 acre-feet of NIA water, the holder of the allocation might be expected to receive much less—on the average, only 14,700 to 15,900 acre-feet per year might be available. In some years of prolonged drought on the Colorado River, there is a high

---

<sup>1</sup> Singh, Madan M., *Water Consumption at Copper Mines in Arizona*, (Special Report 29, State of Arizona, Department of Mines and Mineral Resources; December, 2010).

Mr. Michael J. Lacey  
Ms. Perri Benemelis  
March 29, 2012  
Page 2

probability that no NIA water will be available. Under such circumstances, RCML will use its banked long-term storage credits to make up any shortage.<sup>2</sup>

The fact that NIA water will be of a lesser priority than M&I CAP water also suggests several criteria that the Department might wish to consider when developing its reallocation policy:

- First, NIA water should be reallocated to those entities that have already banked excess CAP water or otherwise accrued long-term storage credits, and who have the ability to use such credits to meet their water demands during shortage conditions. As set forth above, an allocation of NIA water is not a firm supply, and as a consequence, the holder of a water delivery contract for NIA water may have to rely on long-term storage credits to make up any shortage. If an entity requests NIA water but has not banked water to make up any shortfalls in supply, then that entity should not be given a preference in the allocation process.
- Second, NIA water should be first allocated to water users within the three-county service area of the Central Arizona Project. The owners of real property within the three-county service area have paid real property taxes which have been used, in part, to fund the construction of the Central Arizona Project and repayment of amounts owed to the United States for such construction. Equity dictates that these same property owners receive a preference when the NIA water is reallocated.
- Third, within the three-county service area, NIA water should be allocated to those entities that otherwise might be entitled to groundwater withdrawal permits issued pursuant to A.R.S. §§ 45-511, *et seq.* If a water user that is entitled to a groundwater withdrawal permit receives and uses an allocation of NIA water, then that water user would not pump an equivalent amount of groundwater. As a consequence, groundwater levels will be protected, which will in turn further both the management goals and objectives of the active management areas that are within the three-county service area of the Central Arizona Project.
- Fourth, because NIA water is available now, entities like RCML that have immediate plans to either use NIA water or bank it for use during shortage conditions should be given a priority in the reallocation process. This is simply a specific example of the old water axiom, "*use it or lose it.*" In the past, other states have made efforts to secure a greater share of Colorado River water. While these threats have abated somewhat, the best way to protect Arizona's continued access to its share of the Colorado River is to make full and beneficial use of it.

RCML again thanks you for taking time to meet with us to discuss the reallocation process for NIA water, and we look forward to working with you and your Department to finalize the reallocation policy and allocations.

Sincerely,



Carlos D. Ronstadt

cc: Mr. Thomas Buschatzke  
Mr. Brad Ross

---

<sup>2</sup> The fact that NIA water is subject to shortage makes this category of water less valuable than allocations of CAP water that have been made for M&I use. Any further comment on the pricing of NIA water, however, would be premature because at this time, no one has suggested a proposed price per acre-foot for NIA water.



**Peter M. Gerstman**  
Executive Vice President  
General Counsel  
(480) 895-4297  
Email: [Peter.Gerstman@Robson.com](mailto:Peter.Gerstman@Robson.com)

October 15, 2012

**Via E-mail and US Mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue  
Second Floor  
Phoenix, AZ 85012

Re: Non-Indian Agricultural ("NIA") Priority CAP Water Reallocation  
Proposed Process and Evaluation Criteria dated October, 2012 ("Criteria")

Dear Ms. Ikeya:

On behalf of Robson Communities, Inc., I wish to express support for the Department's efforts in developing the Criteria. The NIA water should be an important renewable water supply for the three-County area, and we appreciate the Department's thoughtful proposal for allocating this supply.

As you may be aware, affiliates of Robson Communities are developing "Robson Resort" master planned active adult communities in Maricopa, Pinal and Pima Counties. We support the Department's efforts to focus the allocation of the Municipal Pool of NIA water on those communities that do not have access to CAP M&I Subcontracts or to water from the Salt River system. This strategy will assist in ensuring that the NIA water supply is put to use quickly by communities that do not already have significant renewable water sources.

We also strongly support allowing CAGR D to participate in the Municipal Pool. A number of the Robson Resort Communities are Member Lands in the CAGR D, and we have long supported efforts to strengthen the CAGR D. CAGR D clearly has a demand for water supplies for replenishment purposes. The need of Member Lands and Member Service Areas for CAGR D replenishment services already exists and continues to grow. CAGR D has been criticized for meeting its replenishment obligations, in large part, with excess CAP water. It is now time for CAGR D to enlarge its portfolio of long-term supplies to ensure that it can continue replenishing groundwater for its current and future members into the future.

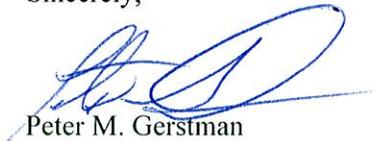
There are a number of other reasons for supporting CAGR D's participation in the Municipal Pool. The CAGR D replenishment function has a very important role in achieving the management goals of the Phoenix, Tucson and Pinal Active Management Areas, while allowing growth to occur in areas without access to renewable supplies. Further, because CAGR D undertakes replenishment and is not a direct provider of water supplies, CAGR D has more flexibility to manage the unpredictable availability of NIA

Deanna Ikeya  
October 15, 2012  
page 2

water. Lastly, because CAGR D's members are located throughout all three Counties, an allocation of NIA water to the CAGR D benefits numerous communities and thousands of individual homeowners.

Thank you for the opportunity to comment on the Criteria. We are looking forward to continued participation in this important process of NIA water reallocation.

Sincerely,



Peter M. Gerstman

November 6, 2012

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**Re: Comments on NIA Reallocation**

Dear Ms. Ikeya,

Thank you for the opportunity to provide written comments on the Arizona Department of Water Resources (Department) draft policy regarding the re-allocation of the 96,295 acre-feet (af) of Non-Indian Agricultural Priority Central Arizona Project water pursuant to the Arizona Water Settlements Act. As you are undoubtedly aware, Rosemont Copper Company (Rosemont) is in the process of re-vitalizing the mineral extraction and metallurgical processing activities at the historic Rosemont mining site in the Santa Rita Mountains in Pima County, Arizona. Rosemont is very interested in obtaining an allocation of this water.

Rosemont holds a Mineral Extraction and Metallurgical Processing Permit issued by the Department in the amount of 6,000 acre feet per year, Permit No. 59-215979.0000, dated January 18, 2008. Although mining activities at the Rosemont site have not yet required withdrawal of groundwater under this permit, the Rosemont development plan is well along in its progress, with significant permits already issued, and the final permits in the very final stages of completion. Rosemont anticipates withdrawals of groundwater under this permit as early as calendar year 2013.

Rosemont has committed to using Central Arizona Project (“CAP”) water to offset its groundwater withdrawals in the Tucson Active Management Area, and to that end, Rosemont has cooperated with Community Water Company of Green Valley to construct an extension of the CAP canal system to the Green Valley/Sahuarita area. We intend to construct a new underground storage facility in near proximity to the Rosemont production water wells, and the opportunity to use the CAP NIA water for storage in this facility is ideally suited to Rosemont’s overall water management goals. Meanwhile, Rosemont is committed to conservation of all water used in its activities, and has developed a mine plan of operation that will consume less than 50% of the water traditionally used in similar mining activities.

The stated goal of the Department is to use the NIA water effectively to reduce groundwater overdraft in the near term, particularly in the Active Management Areas. As an authorized groundwater user capable of using this NIA water to offset groundwater withdrawals in the near term, this goal fits our situation well. Therefore, our comments on the proposed policy are limited to the following specifics:

- We believe that the demand for NIA water by the industrial sector in Arizona will far outreach the 12,000 af currently allocated by the Department. While we appreciate that there are many competing users, all of which might suggest that they need more water, the nature of the NIA water (being subject to shortage and increasingly subject to shortage in the decades to come) makes it uniquely

suitied to near term industrial use. Using this reallocation supply to support industries that are capable of contributing significantly to the Arizona economy over the next few decades makes practical economic sense consistent with the realities of the limitations of this supply. Therefore, we request that the Department consider expanding this industrial pool to meet the needs of our mining business community. We believe this request will be borne out by the volumes requested by the mining sector, and its demonstrated ability to put this water to use immediately in offsetting groundwater. Certainly, we request that the Department resist any attempt to further limit this pool.

- Although the current draft policy meets the Rosemont needs well, and we request that the term “existing ... industrial user” be modified or construed to mean a **currently authorized** groundwater user so that there is no doubt about Rosemont’s qualification. We are within the CAP service area, have the infrastructure and financial ability to make immediate use of this water, and have a demonstrated commitment to use CAP water to offset groundwater use to the maximum extent feasible.

We look forward to your response to comments, finalization of the reallocation policy and the application and selection process. If there is any information we can supply in the course of your deliberations, please contact us.

Sincerely,

A handwritten signature in blue ink that reads "Rod Pace". The signature is fluid and cursive, with the first letters of "Rod" and "Pace" being capitalized and prominent.

Rod Pace  
President/CEO  
Rosemont Copper Company



**Water Resources**

9379 E. San Salvador  
Scottsdale, AZ 85258

PHONE 480-312-5685  
FAX 480-312-5615

9 November 2012

Ms. Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 N. Central  
Phoenix, AZ 85012

RE: NIA Reallocation Proposed Process and Evaluation Criteria

Dear Ms. <sup>Deanna</sup>Ikeya:

The City of Scottsdale appreciates the opportunity to provide input in the development of the Proposed Process and Criteria for the Reallocation of NIA Priority CAP Water, which was recently released for public review. We support the Department in its efforts to move forward with the reallocation process. The reallocation of this substantial amount (96,295 acre-feet) of NIA Priority Water, as contemplated in the Arizona Water Settlement Act of 2004, has the potential to substantially reduce groundwater pumping in the AMAs and move us one step closer to safe-yield.

The City of Scottsdale has made significant efforts over the years to acquire high priority reliable surface water supplies, and at this time, does not anticipate a future need for NIA water. Indeed, we would not be even be eligible for an allocation given the criteria as currently written. Nevertheless, we have some general comments regarding the process which we would like to emphasize. We also concur with the detailed comments as submitted by the Arizona Municipal Water Users' Association (AMWUA). They effectively address the more specific concerns that the City has regarding the proposed process and criteria.

Scottsdale's overriding goal for this process is that NIA water be used to reduce groundwater overdraft. Therefore, we believe that the criteria must facilitate this result by giving priority to those users who intend to directly utilize NIA water to replace existing groundwater demands, especially those areas with declining water levels. We also suggest that the Department require that the recipient of any allocation who intends to use the water for groundwater recharge demonstrate that the water will be recharged and recovered in a way that facilitates sustainable aquifer management within the AMAs.

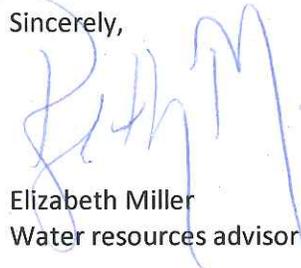
Finally, prior involvement in allocation and reallocation processes has demonstrated to us that these processes can be complicated and time consuming, requiring an extended time period for discussion. The Proposed Process and Criteria provide for only a minimal review and comment period. Scottsdale

urges the Department to extend that period in order to provide for a thorough analysis of the additional proposals as submitted by commenters.

We also urge the Department to provide an additional opportunity for comment on any revised proposals and eventually on any final recommendations regarding the allocation of NIA water that the Department makes to the Secretary. An extended and thorough analysis in a public process is especially important given the profound impact that this reallocated water can have on the water resources management future of the state.

Again, the City of Scottsdale appreciates the opportunity to comment on the proposed criteria. We look forward to working with the Department and other water users throughout the state to develop recommendations regarding the reallocation of NIA priority water that promote sustainable use of Arizona's precious water resources.

Sincerely,



Elizabeth Miller  
Water resources advisor



November 9, 2012

Ms. Michelle Moreno  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012-2105

Re: Non-Indian Agricultural Priority Central Arizona Project  
Water Reallocation- Comments on Proposed Process and  
Evaluation Criteria

Dear Ms. Moreno:

The City of Sierra Vista appreciates the opportunity to comment on the Department's proposed process and evaluation criteria for reallocating 96,295 acre-feet of Non-Indian Agricultural Priority Water (the NIA Reallocation). The City understands the NIA reallocation is the last significant unallocated supply of water available for use within the State of Arizona. With that in mind, the City is concerned that the Department has completely ignored the State's and thus the Department's obligation to maintain a significant portion of this last remaining unallocated water supply to settle and/or mitigate impacts to local service providers from yet to be adjudicated non-Indian federal reserve rights associated with the various reservations within the State (such as military reservations and the San Pedro National Conservation Area). The City believes that such settlement/mitigation should have the highest priority of any of the purposes in the NIA Reallocation and should be allocated without regard to whether needed within or without the CAP service area.

Based upon a 2007 Augmentation Study conducted by the Bureau of Reclamation and funded in part by the Department, the Sierra Vista Sub-Watershed could benefit by augmentation in excess of the entire 17,333 acre feet the Department has tentatively set aside for the entire state outside of the CAP service area. The Bureau, in coordination with the Upper San Pedro Partnership, with funding by various entities, including the Department and the City, is looking to conduct feasibility studies for augmenting water supplies, including extending the CAP canal. However, the volumes to be studied were established at 20,000, 30,000 and 40,000 acre feet. Therefore, at a minimum, the City would be looking for a 20,000-acre foot allocation CAP water, an amount in excess of the entire NIA water supply the Department proposes to make available outside of the CAP service area.

Ms. Michelle Moreno  
November 9, 2012  
Page Two

The Department looked exclusively to the percentage of population in determining how much of the NIA water to allocate outside of the CAP service area. While this is certainly a valid factor, it should not be the exclusive factor. As noted, the amount of water needed to effectuate settlements of and to mitigate impacts from non-Indian federal reserved rights, as well as the augmentation needs of an area should be considerations, as should the possibility of extending the CAP canal beyond the current three county CAP service area.

The City also requests the Department provide additional guidance on the criteria the Department may consider, or at least deems relevant, in deciding among competing interests outside of the CAP service area. The City understands that the Department does not plan to make such allocations until 2021, but those interested in receiving an allocation, like the City, need to understand the basic criteria that the Department will consider.

The City has been expending funds to assist the Bureau of Reclamation planning efforts and is being asked to commit to an additional \$130,000 in annual funding through the 2014-2015 fiscal year, plus the provision of in-kind services. Such expenditures are extremely difficult under current budgetary conditions. The City needs to better understand where it stands among those competing for a share of this NIA water in order to make appropriate allocation of its limited funds.

Thank you for considering these comments. Please feel free to contact me if you have any questions.

Sincerely,



Charles P. Potucek  
City Manager



*Office of the Mayor*

October 1, 2012

Ms. Sandra A. Fabritz-Whitney  
Director  
Arizona Department of Water Resources  
5550 North Central Avenue  
Phoenix, Arizona 85012-2105

Subject: Comments on the Proposed Process and Evaluation Criteria (NIA Priority Water Reallocation)

Dear Ms. Fabritz-Whitney:

I would like to start my comments by commending the Arizona Department of Water Resources for having the foresight to include non-metropolitan areas of Arizona without access to CAP in your planning process. Your department is well aware municipalities and industries in all of Arizona must act now to secure future water needs. Even considering allotting a portion of the water available to non-metropolitan areas will prove critical in maintaining the current economic engines and the future growth needed in non-metropolitan communities of rural Arizona.

In the specific case of the City of Sierra Vista/Fort Huachuca and the Upper San Pedro River Basin, we have been actively working toward reducing the groundwater overdraft in order to meet current and future water needs. As one of the most studied watersheds in the world, it has been clear for some time that current available conservation and mitigation measures will not meet our future needs. Only water augmentation when coupled with conservation and mitigation will allow our region to balance water use and start to meet current and future water needs. Allocating a portion of water through this process will greatly aid our efforts.

An assured current and future water supply is critical in meeting the potential future needs of Fort Huachuca and its \$2.4 billion economic impact on the State of Arizona. Because of its high tech missions, unmanned aerial systems, electronic testing, cyber defense and intelligence, Fort Huachuca is vital to preserving and protecting national security. Libby Army Airfield, on Fort Huachuca, and its restricted airspace, remains irreplaceable to the flight training missions of both Luke and Davis Monthan Air Force bases and the \$9.1 billion economic impact of all military installations in Arizona.

Offering the future allocation in 2021 does, in fact, give our city a realistic amount of time to allow for the additional planning and the financing that will be required to utilize this supply of water when an allotment is granted. While we may be ahead of the other non-metropolitan communities in addressing

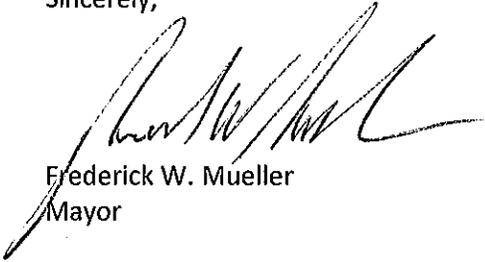
Ms. Sandra A. Fabritz-Whitney  
October 1, 2012  
Page 2

future water needs, I am sure my fellow elected officials in Cochise County and the four-county SouthEast Arizona Governments Organization (SEAGO) would agree, a continued allocation of this nature will remain critical in meeting future rural water needs. It would be devastating for all non-metropolitan areas of Arizona should your department decide not to allow the future allocation as designed in your current proposed process.

The City of Sierra Vista has been actively involved since 1988 in reducing water use through enacting progressively more restrictive city codes. Our per person water use for all uses – industrial, residential, institutional and commercial – is less than that of most other communities in all areas of the state. Many other non-metropolitan communities have enacted similar restrictive measures to ensure effective use of their water resources. With few exceptions, metropolitan communities in Arizona that have access to a CAP allocation have not had to use these more restrictive measures such as limiting the use of turf, prohibiting the use of fountains and misters and requiring the use of waterless urinals. It is important for the future of Arizona that all areas of the state share in both efforts of conservation for the most effective use of water and to benefit from the availability of CAP resources.

We fully support the "Proposed Process and Evaluation Criteria," as written, for the reasons stated above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frederick W. Mueller', written over a horizontal line.

Frederick W. Mueller  
Mayor

FWM/ms



October 23, 2012

**Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue  
Second Floor  
Phoenix, AZ 85012

Re: Non-Indian Agricultural ("NIA") Priority CAP Water Reallocation  
Proposed Process and Evaluation Criteria dated October, 2012 ("Criteria")

Dear Ms. Ikeya:

On behalf of Sunbelt Holdings, I wish to express Sunbelt's support for the Department's efforts in developing the Criteria. The NIA water will be an important renewable water supply for the three-County area, and we appreciate the Department's thoughtful proposal for allocating this supply.

As you may be aware, Sunbelt Holdings is a real estate development, investment and management firm. We have developed numerous master-planned communities, many of which are in communities that do not have access to CAP M&I Subcontracts or to water from the Salt River system. With that in mind, we support the Department's efforts to focus the allocation of the Municipal Pool of NIA water on those communities that will need this water in the near term. This strategy will assist in ensuring that the NIA water supply is put to use quickly by communities that do not already have significant renewable water sources.

We also strongly support allowing CAGR D to participate in the Municipal Pool. A number of our developments are Member Lands in the CAGR D, and Sunbelt has long supported efforts to strengthen the CAGR D. CAGR D clearly has a demand for water supplies for replenishment purposes. The need of Member Lands and Member Service Areas for CAGR D replenishment services already exists and continues to grow. CAGR D has been criticized for meeting its replenishment obligations, in large part, with excess CAP water. It is now time for CAGR D to enlarge its portfolio of long-term supplies to ensure that it can continue replenishing groundwater for its current and future members into the future.

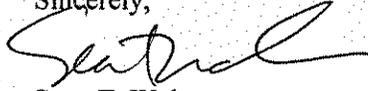
There are a number of other reasons for supporting CAGR D's participation in the Municipal Pool. The CAGR D replenishment function has a very important role in achieving the management goals of the Phoenix, Tucson and Pinal Active Management Areas, while allowing growth to occur in areas without access to renewable supplies. Further, because CAGR D undertakes replenishment and is not a direct provider of water supplies, CAGR D has more flexibility to manage the unpredictable availability of NIA

7516409.1/015905.0003

water. Lastly, because CAGR D's members are located throughout all three Counties, an allocation of NIA water to the CAGR D benefits numerous communities and thousands of individual homeowners.

Thank you for the opportunity to comment on the Criteria. We are looking forward to continued participation in this important process of NIA water reallocation.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean T. Walters". The signature is fluid and cursive, with a prominent initial "S".

Sean T. Walters  
Chief Operating Officer

Water Utilities  
Department

November 7, 2012

Deanna Ikeya, Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue, Second Floor  
Phoenix, Arizona 85012

**RE: City of Tempe Comments to Proposed Criteria for Non-Indian Agricultural  
Priority Central Arizona Project Water Reallocation, October 2012**

Dear Ms. Ikeya:

The City of Tempe (“Tempe”) appreciates the opportunity to provide comments on the above-referenced criteria. Because the 96,295 acre-feet per annum (afa) of Central Arizona Project (“CAP”) Non-Indian Agricultural (“NIA”) water to be allocated through this process is likely to be the last pool of CAP water to be allocated to non-Indian municipal and industrial (“M&I”) water users, the appropriate allocation of this water is very important to Tempe and the State of Arizona as a whole. Distributing that water appropriately is a significant and important responsibility, and all M&I water users that have need for additional water supplies should have a fair and equitable opportunity to obtain an allocation.

For the most part, Tempe supports the Department’s stated goals of: 1) reducing groundwater overdraft; 2) providing additional supplies of water to areas with limited physical availability; and 3) meeting current and future water demands. Tempe, however, is very concerned that the proposed criteria, as set forth, will have limited, if any, success in achieving these goals. Tempe, therefore, requests that the criteria be revised and re-released for additional public input. Tempe submits the following suggestions for revising the criteria.

**I. Priority of reallocation**

Tempe suggests the following order of priority for the reallocation. Tempe limits its comments to that pool of NIA CAP water recommended for allocation to municipal providers within the CAP service area.<sup>1</sup>

---

<sup>1</sup> Based on the data included in the Department’s proposed criteria, the Department’s division of the total reallocation water into four “pools,” with each pool reserved for a distinct group of water users, limits the municipal providers that will serve 82% of the State’s projected population in 2020 with just less than 54% of the total water available for reallocation, if the water tied to MSIDD and CAIDD is excluded. Even if the MSIDD/CAIDD water is added back into the CAP service area municipal pool, only 66% of the water available for reallocation is available to those entities serving 82% of the State’s projected population. The discrepancy between the percentage of the total reallocation water available to the municipal water providers in the CAP service area and the percentage of the State’s population served by those providers only heightens the importance of a fair and appropriate reallocation process for those municipal water providers.



The Department's criteria for recommending reallocations of CAP NIA water should give the highest priority to those applicants that will treat and deliver the water directly to their customers in place of existing groundwater pumping. There can be no argument but that replacing existing groundwater pumping with direct use of the reallocated CAP NIA water is the most effective means of preserving groundwater supplies for later use. As is explained in Section II of this letter, Tempe does not support the concept of forcing a water provider to choose between seeking CAP NIA water in this reallocation and its Assured Water Supply groundwater allowance. Tempe strongly supports, however, direct use of renewable supplies while reserving groundwater use for times of shortage of renewable supplies, as was the original intent of the Arizona's Groundwater Code. This result should be the highest priority of the current reallocation process.

The Department's second area of priority should be those water users that will commit to and can establish that they will store or replenish the reallocated CAP water in an area that is either: (i) in the area of hydrologic impact from which the water will be recovered, if the water has been stored, or in the area of hydrologic impact from groundwater pumping by members of the Central Arizona Groundwater Replenishment District ("CAGRDR"), so that there is a direct hydrologic connection in the aquifer between the water that is reallocated and the area in which resultant well pumping occurs; or (ii) in a localized area of significant groundwater decline.

The proposed criteria, as drafted, do not adequately tie storage or replenishment of the reallocated CAP water to a useful location. While the proposed criteria provide that storage or replenishment of this water must be "consistent with the water management goals," nothing currently in the Department's laws or regulations provides a mechanism for the Department to ensure that the water will be stored or replenished in an area where it will physically offset the water withdrawn by the entity (or a member of the entity) receiving the reallocation or where there is an existing physical shortage of water. Without commitments from the recipients of the reallocated water that the water will be stored or replenished in a location where it most directly replaces existing water pumping, the criteria simply allow additional pumping of an aquifer with no certain offsetting hydrologic benefit.

Some amount, but not all of the municipal pool water, should be provided to the CAGRDR. It must be recognized, however, that providing additional water supplies to the CAGRDR does not simply allow the CAGRDR to meet existing obligations, but to incur new obligations, allowing additional groundwater-based development and putting yet further strain on the aquifers. If water supplies reallocated to CAGRDR are not replenished in aquifer locations where its members are pumping or in localized areas of significant groundwater decline, a reallocation to CAGRDR has the strong likelihood of hindering achievement of the Department's goals. Tempe supports a reasonable allocation to CAGRDR in recognition of its existing obligations. The quantity of water available to CAGRDR should be based on both its current replenishment obligation and its commitment to replenish the water in an aquifer location where its members are pumping or areas that are experiencing significant groundwater declines.

Ensuring that the reallocated water is stored or replenished in the locations specified above will help achieve all three of the Department's goals.

The third priority of the Department's criteria should be those existing CAP contract holders that are regularly taking delivery, treating and serving their full current allocations of

contracted CAP water and can demonstrate an immediate or near-future ability to treat and deliver the reallocated water to their customers.

Arizona's Groundwater Management Act ("GMA") of 1980 won awards as a progressive landmark in water management. Through a variety of mechanisms, the GMA's purpose is "to conserve, protect and allocate the use of groundwater resources." A.R.S. § 45-401. Although the GMA and the Department it created encourage wise use of all water supplies, the particular restrictions on the use of groundwater create an incentive for water users to develop renewable, non-groundwater supplies and to finance and construct the infrastructure necessary to transport, treat and deliver those renewable supplies directly to consumers. Reallocating some of the NIA CAP water to existing CAP contract holders that are fully using their currently contracted CAP water allocations would serve to recognize those water providers that, since the adoption of the Groundwater Code, have made significant investments in procuring renewable water supplies and the infrastructure necessary to serve that water.

As noted by the Department, the NIA CAP water to be reallocated by this process may be subject to reduced availability in the future. The Department should recognize that water providers already fully using their contracted CAP water supply allocations could use the reallocated water to make existing water portfolios more diverse, increasing the overall reliability of all of their supplies.

Reallocating some of the CAP water to those providers, such as Tempe, will provide an additional renewable resource to fully utilize before turning to groundwater aquifers to serve its customers, thus promoting the Department's goals. The Department could quantify the amount available to such providers by examining additional reasonable quantities of CAP water that the provider could transport, treat and serve directly to customers in the immediate future.

## **II. Other issues**

### **A. The criteria should recognize the possibility of future reallocations.**

If more water is available in the pool dedicated to municipal water providers in the CAP service area than can be allocated at this time to the priorities discussed above, the remaining water should be set aside for municipal water providers in the CAP service area for a future reallocation process.

An arbitrary rush to reallocate this water does not recognize its significance as the last reasonably foreseeable supply of "wet" water available to Arizona municipal water providers. Particularly during this economic downturn, providers may not have the resources to develop the infrastructure necessary to take delivery, treat and serve the water directly. Even developing storage facilities that could store or replenish the water in areas that would further the Department's reallocation goals would require significant financial resources. Undertaking a final reallocation of all of the water at this particular time, if there is no resultant furtherance of the Department's goals, is unwise and unnecessary.

### **B. Reliance on 2020 as a planning date is unwarranted.**

For the same reason, the Department's focus on 2020 as a significant date in determining the reallocation for water providers outside of the water dedicated to the Maricopa Stanfield Irrigation and Drainage District ("MSIDD") and the Central Arizona Irrigation and Drainage District ("CAIDD") is misplaced.

The 2020 date is taken from the Arizona Water Settlement Agreement but has direct applicability in that Agreement only to water dedicated to the CAIDD and MSIDD service areas in the Pinal AMA. There is no direct tie between that date and the remaining reallocation process. Focusing on that immediate date simply does not allow water providers the planning horizon necessary to plan for development of the infrastructure necessary to treat and serve the water directly or to store/replenish it in useful locations.

The focus on this date, in combination with a plan to reallocate the full amount of water, is particularly pernicious in that it ensures that the reallocated water in large part will not be used for direct service to customers or to offset groundwater overdraft in useful locations but will be reallocated to the CAGRDR for replenishment "somewhere" in the CAP three-county service area. Use of this date frustrates the Department's stated goals.

- C. The requirement to relinquish the groundwater allowance is discriminatory and inappropriate.

The requirement that certain water providers relinquish portions of their Assured Water Supply groundwater allowance in exchange for receiving a reallocation of NIA CAP water can only be seen as a disincentive to apply for the reallocation while failing to achieve any of the Department's goals. It is difficult to ascertain why any municipal water provider with a groundwater allowance would trade groundwater immediately available under its service area for a much more expensive source of water with significantly less reliability. Therefore, this requirement can only be seen as a disincentive to apply for the reallocation water.

The relinquishment requirement also makes no sense in the furtherance of the Department's goals. The Department's own assured water supply rules declare that use of this groundwater allowance is consistent with the achievement of safe yield in the Phoenix AMA, therefore relinquishing the allowance cannot be said to be in furtherance of reducing groundwater overdraft. A.A.C. R12-15-722(A). Further, given that the groundwater allowance is simply a mechanism of the Assured Water Supply program, relinquishing those credits cannot actually create water so as to provide water to areas with limited physical availability.

The relinquishment requirement is also inappropriately discriminatory. It only applies to a limited number of municipal water providers—primarily those that have furthered the Groundwater Code's goals by making significant investments in renewable water supplies and the resulting required infrastructure. It rewards CAGRDR member providers which, presuming the CAGRDR receives a reallocation to replenish on their behalf, are allowed fully to use their groundwater allowance with no relinquishment requirement.

The relinquishment requirement serves no purpose, is inappropriately discriminatory, and should be removed from the criteria.

- D. CAWCD's Supply Availability Charge is unnecessary and inappropriate.

CAWCD proposes to charge \$1000/af as a "Supply Availability Charge" "to maintain some or all of the 'normal' year availability of the NIA priority water." Tempe will not review CAWCD's legal authority to impose this fee but has serious misgivings about that authority and the ambiguity of the stated purpose of the charge.

This charge is simply unnecessary and inappropriate. If the Department accepts Tempe's suggestions for the prioritization of the reallocation, some of the water may go to water providers with other sources of water, the total portfolio of which provides security for all of the water supplies. In other words, the municipal water provider to which the water is reallocated may be able to deal with any shortfalls of the reallocated CAP NIA water more efficiently and more effectively than CAWCD.

#### IV. Conclusion

In conclusion, Tempe supports the Department's stated goals. The proposed criteria, however, fall far short of achieving those goals. The proposed criteria, if implemented, will result in the vast majority, if not all, of the water available for reallocation to municipal water providers in the CAP service area going to the CAGR, with no enforceable requirement that the water be replenished in areas that will achieve any useful reduction in groundwater overdraft or mitigation of a physical water shortage. It will have the further unfortunate consequence of fueling additional groundwater-based development in the AMAs.

The criteria as currently proposed have a likely potential to promote groundwater-based development while penalizing water providers that have invested in renewable water supplies—an ironic result given the original purpose and intent of Arizona's Groundwater Code. Tempe requests that the proposed criteria be revised in accordance with the suggestions set forth in this letter and re-released for additional public comment and input.

We are available to meet with the Department at your convenience to discuss further the comments set forth in this letter.

Sincerely,



Donald B. Hawkes  
Deputy Public Works Director  
Water Utilities Division

cc: Sandy Fabritz-Whitney, Director, ADWR  
Tom Buschatzke, Assistant Director, ADWR  
Tom McCann, Assistant General Manager, CAWCD



October 17, 2012

**Via E-mail: [dkikeya@azwater.gov](mailto:dkikeya@azwater.gov)**

Deanna Ikeya  
Colorado River Management  
Arizona Department of Water Resources  
3550 North Central Avenue  
Second Floor  
Phoenix, AZ 85012

Re: Non-Indian Agricultural ("NIA") Priority CAP Water Reallocation Proposed Process and Evaluation Criteria dated October, 2012 ("Criteria")

Dear Ms. Ikeya:

On behalf of Trillium, I wish to express our support for the Department's efforts in developing the Criteria. The NIA water will be an important renewable water supply for the three-County area, and we appreciate the Department's thoughtful proposal for allocating this supply.

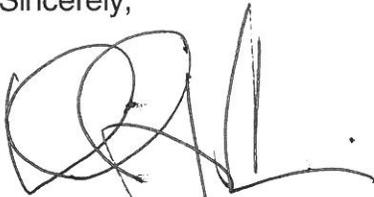
Trillium is a 3,000 acre Master Planned Community, located in the Town of Buckeye, which does not have access to CAP M&I Subcontracts or to water from the Salt River system. With that in mind, we support the Department's efforts to focus the allocation of the Municipal Pool of NIA water on those communities that will need this water in the near term. This strategy will assist in ensuring that the NIA water supply is put to use quickly by communities that do not already have significant renewable water sources.

We also strongly support allowing CAGR D to participate in the Municipal Pool. A number of our developments are Member Lands in the CAGR D, and Trillium has long supported efforts to strengthen the CAGR D. CAGR D clearly has a demand for water supplies for replenishment purposes. The need of Member Lands and Member Service Areas for CAGR D replenishment services already exists and continues to grow. CAGR D has been criticized for meeting its replenishment obligations, in large part, with excess CAP water. It is now time for CAGR D to enlarge its portfolio of long-term supplies to ensure that it can continue replenishing groundwater for its current and future members into the future.

There are a number of other reasons for supporting CAGR's participation in the Municipal Pool. The CAGR replenishment function has a very important role in achieving the management goals of the Phoenix, Tucson and Pinal Active Management Areas, while allowing growth to occur in areas without access to renewable supplies. Further, because CAGR undertakes replenishment and is not a direct provider of water supplies, CAGR has more flexibility to manage the unpredictable availability of NIA water. Lastly, because CAGR's members are located throughout all three Counties, an allocation of NIA water to the CAGR benefits numerous communities and thousands of individual homeowners.

Thank you for the opportunity to comment on the Criteria. We are looking forward to continued participation in this important process of NIA water reallocation.

Sincerely,

A handwritten signature in black ink, appearing to read 'MJ Cronin', with a stylized flourish at the end.

Michael J. Cronin  
Trillium Project Manager