Responses from ADWR in Red. Dated October 10, 2012.
September 27, 2012

Via E-Mail

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--Proposed Process and Evaluation Criteria

Dear Ms. Moreno:

The Arizona Municipal Water Users Association (AMWUA) and its member municipalities have several questions about the Department's Proposed Process and Evaluation Criteria (Process and Criteria) for recommending reallocations of NIA Water. In order to facilitate the preparation of comments on the Process and Criteria by the due date of October 19, 2012, we are writing to give you advance notice of our questions with the hope that the Department can answer them at the public meeting scheduled for October 2, 2012. Our preliminary questions follow.

General Questions

1. The Department has identified three goals for this reallocation: (1) to reduce groundwater overdraft; (2) to provide an additional source of water to areas with limited physical availability of groundwater; and (3) to meet current and future water demands. How does the Process and Criteria meet the goal of providing an additional source of water to areas with limited physical availability of groundwater?

   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.

2. Does the 70% reliability estimate for NIA Water assume that the "supply availability charge" proposed by CAWCD will be collected and used to acquire or preserve senior Arizona Colorado River contract entitlements?

   The 67% average availability discussed during the presentation does not assume that any additional senior Arizona Colorado River contract entitlements will be acquired by CAWCD.

3. How will the Department ensure that the information contained in an applicant's submittals remains valid? For example, if a reallocation is made to a municipal provider based on a large Demand and Supply Imbalance in 2020, what will happen if the Imbalance does not occur? Will there be a mechanism to "recall" or reduce the reallocation?

   The Department will use the best and most accurate information that can be obtained at the time of evaluation of the applications. The Department will substantiate the data that is provided for the calculation of the 2020 Demand and Supply Imbalance to assure that this data is as accurate as possible. The Secretary of the Interior has the authority to allocate and contract for this water; contracts are generally for permanent service as that term is used in Section 5 of the 1928 Boulder Canyon Project Act.

Municipal Pool

1. Is a municipal provider with a designation of assured water supply that does not expire until after 2020 eligible to apply for NIA Water from the Municipal Pool if the municipal provider cannot demonstrate a Demand and Supply Imbalance (as defined and determined by the Department) in 2020? Why was the 2020 date selected? What "previously submitted data and other available data typically used in Department planning studies" will the Department use when it substantiates the applicants' submittals?

   The Department plans to calculate the volume of water it will recommend based on the estimated Demand and Supply Imbalance for 2020.

   2020 was selected to coincide with other time-specific actions identified in the Arizona Water Settlement Agreement. This water supply 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.

   The Department could use data previously submitted in applicants' Annual Reports, Assured Water Supply Designation applications, and other submittals to the Department or other agencies. The Department may also use other supporting data such as population projections conducted by recognized organizations such as the state Population and Statistics Unit.

2. Under the Department's 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.

   a. Will the groundwater associated with these relinquished credits be available for "reallocation" to other users under future designations or certificates of assured water supply? What will be the impact on the drought exemption?

      The Department is working on the response to this question and we will post a new version of this document when it becomes available.

   b. Will a member service area municipal provider that receives a reallocation that results in a reduction in CAGRD's Demand and Supply Imbalance also be required to relinquish

Groundwater Allowance credits?

The member service area would only need to relinquish Groundwater Allowance credits if its Assured Water Supply Designation expiration date was 2021 or later.

3. How will CAGRD's "projected actual 2020 replenishment obligation" be calculated? Will it be based on existing members only? Will it include excess groundwater that is considered in designations of assured water supply for member service areas that may never be pumped? How will the projected availability of Excess CAP Water affect CAGRD's Demand and Supply Imbalance in 2020?

   The projected actual 2020 replenishment obligation will only include the excess groundwater that is likely to be pumped in 2020 and therefore likely to create an actual replenishment obligation for the CAGRD. This projection will not be limited to existing members only since the CAGRD may acquire additional member lands and service areas. Excess CAP water will not be included as an available supply in the evaluation of the CAGRD's Demand and Supply Imbalance.

4. Are municipal providers that are eligible for the CAIDD and MSIDD Pools also eligible to apply for water from the Municipal Pool?

   If the total of the requested volumes for qualified applicants inside either the CAIDD or MSIDD areas exceed 5,910 af during the 2012 Interval, the unfulfilled requested volumes would be eligible for the Municipal pool.

<u>Industrial Pool</u>

1. Must an industrial user be an existing industrial user to apply for a reallocation?

   The goal for this reallocation is to replace existing groundwater uses with NIA Priority water. The Department may consider giving priority to those applicants with existing industrial water demands.

2. Will the reallocation to an industrial user be for a specific use at a specific location?

   The specific location and use will need to be identified for the NEPA Compliance process.

3. Will an industrial user that receives a reallocation be required to give up rights to pump under a GIU permit?

   The Department 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 water is not available.

4. Must NIA Water that is reallocated for industrial uses be used within the CAP service area?

   Since this Industrial Pool is a subset of the CAP Service Area Pool, the industrial use needs to be within the CAP Service Area.

5. 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?

If an industrial user is located in a municipal provider's service area and is currently using groundwater, then that industrial user would be eligible for an allocation because the NIA Priority water would help to reduce that groundwater use.

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

   The Department will consider the expected duration of the industrial water use in determining its recommendation to the Secretary. As noted above, Colorado River water contracts are generally for permanent service as that term is used in Section 5 of the 1928 Boulder Canyon Project Act.

7. 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?

   The volume of water available for the Industrial Pool was calculated as the percentage due to industrial demands out of the overall municipal and industrial demands within the CAP Service Area only. Therefore, this Industrial Pool is a subset of the CAP Service Area Pool.

CAIDD and MSIDD Pools

1. What is the rationale for why these Pools are not deducted first from the total NIA Water amount of 96,295 acre-feet since they were required to be set aside under the AWS Agreement?

   Since the CAIDD and MSIDD areas are within the CAP Service Area, the Department included the demands for those two areas within the demand calculations for that pool.

2. Why wouldn't CAGRD be eligible to receive a reallocation from this Pool for replenishment on behalf of members within the boundaries of MSIDD and CAIDD?

   The Arizona Water Settlement Agreement specifies that the allocation for the CAIDD and MSIDD areas is available to municipal water providers that serve those areas.

CAP Acquisition Pricing Methodology

While we understand that CAWCD prepared the pricing methodology document, the document does not indicate a contact person at CAWCD. Consequently, we are including our questions about the methodology in this letter and sending a copy of this letter to CAWCD.

1. What is CAWCD's authority to assess a supply availability charge?

2. The supply availability charge is "based on a concept level estimate." Are there any additional analyses planned that will better define the potential costs and benefits of the proposed program?

3. If CAWCD is not able to "acquire or preserve the amount of Colorado River water necessary to maintain some or all of the 'normal' year availability" of the NIA Water, what will happen to the revenues generated by the supply availability charge?

4. Will CAWCD offer financing arrangements to pay for the cost of allocations of NIA water?

We look forward to hearing your responses to our questions at the public meeting. Please feel free to contact me if you need clarification of any of the points raised in this letter.

Sincerely,

Kathleen Ferris, Director

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