

Governor's Water Policy Council Assured Water Supply Committee

November 14, 2023



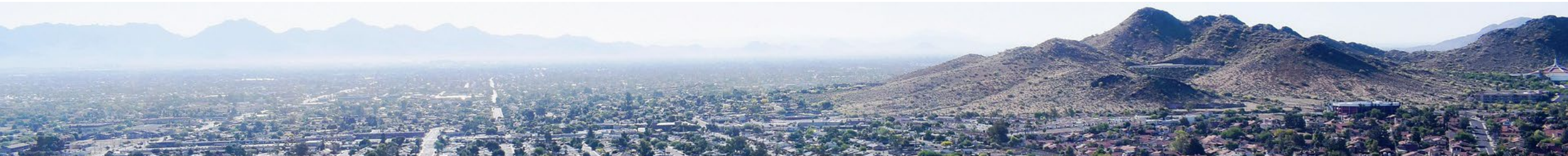
Meeting Logistics

- Please note that this meeting is being broadcast via webinar and is being recorded.
- The meeting recording and materials will be posted to the Council's webpage (<https://www.azwater.gov/gwpc>).
- Only members of the Committee will be able to unmute themselves to participate in the meeting.
- Please identify yourself before speaking.
- *Technical issues? Please call the ADWR Help Desk at 602-771-8444 or email tickets@azwater.gov.*

I. Welcome

Agenda

- I. Welcome
- II. Committee Objective
- III. Proposal Discussion
 - a. Wildcat Development – *for action and discussion*
- IV. Rural Groundwater Committee Updates
- V. Additional AWS Committee Concepts
- VI. Next Steps
- VII. Closing Remarks



II. Committee Objective

AWS Committee Objective

Review and make recommendations for updates to Assured Water Supply policies—legislatively, administratively, or by executive action—to address the challenges revealed by the modeling projections.

Deliverables: Policy recommendations that meet the objective and principles.

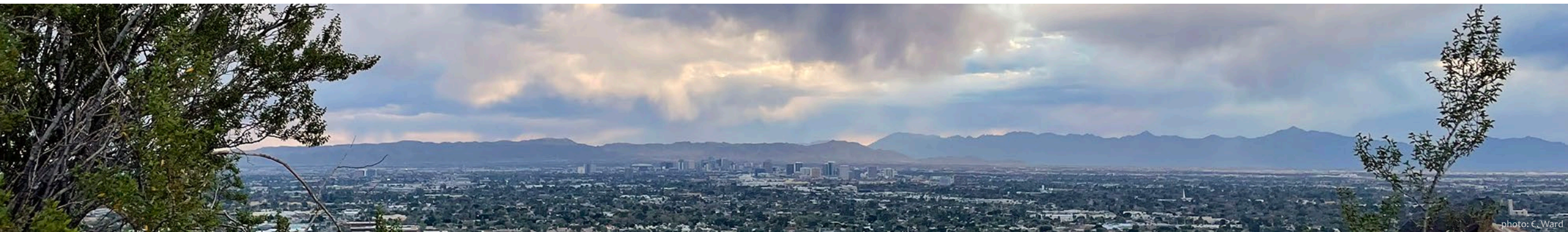
Focus: Development of high-priority, well-constructed proposals, keeping the timeline in mind.

Principles

- Proposals must protect the strength and integrity of the Assured Water Supply program.
- Proposals should enable future growth without reliance on mined groundwater.
- Proposals may not reduce the 100-year requirement or increase the depth to which groundwater may be pumped.
- Proposals must ensure there is water before growth.
- Proposals must protect consumers.

Current AWS Committee Proposals

- **Wildcat Development**
- Alternative Path to Designation of Assured Water Supply (ADAWS) – *recommended by the Governor’s Water Policy Council to the Governor*
- Build to Rent – *recommended by the Governor’s Water Policy Council to the Governor*



III. Proposal Discussion

III. Proposal Discussion

Wildcat Development

Ben Alteneder

Chief Legislative Liaison

“Wildcat” Development Background

- A subdivision is created at the county-level when land is divided into six or more lots, parcels, or fractional interests.
- In an AMA, to sell or lease lots within a subdivision, an assured water supply is required, but if no subdivision is created, no assured water supply is required.
- Continued development without an assured water supply exacerbates groundwater mining, puts homeowners at risk, and feeds negative perceptions of Arizona’s ability to manage its water supply.

“Wildcat” Development Defined

“Proliferation of development by splitting residential parcels of 6 or more lots with the intent to circumvent laws relating to the creation of a subdivision”

“Wildcat” development is an informal term to characterize illegal lot splitting. The purpose of the proposal is to stop those who are intentionally circumventing laws that relate to assured water supply and other improvements in subdivisions.

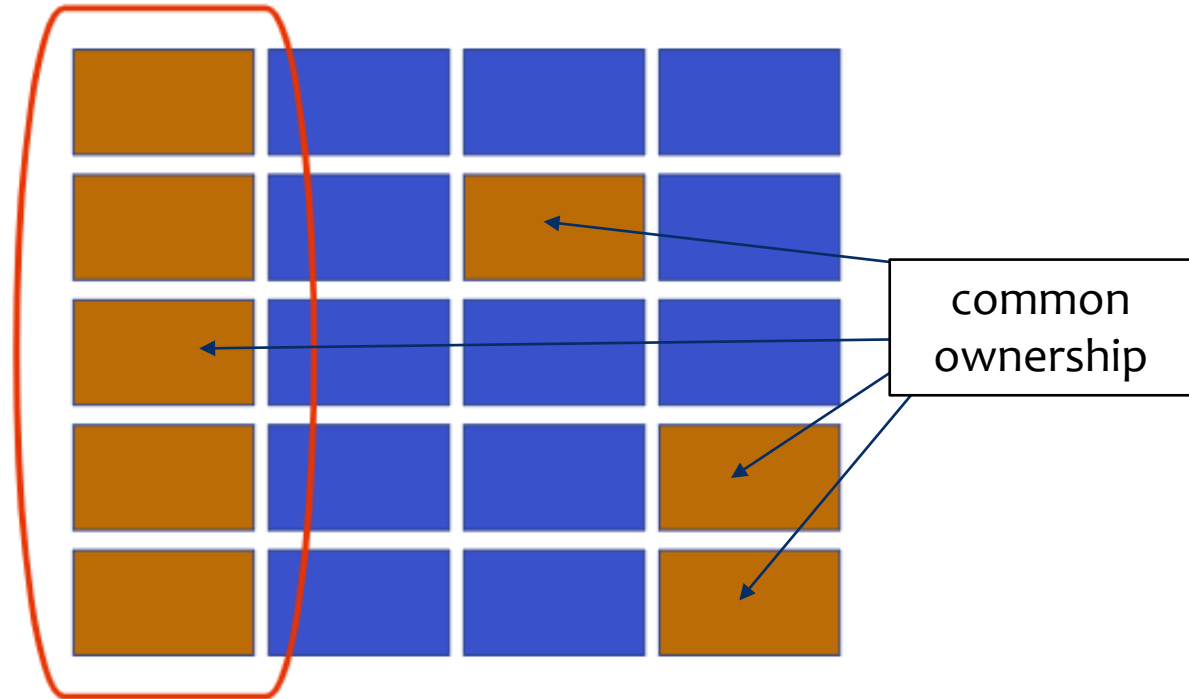
“Wildcat” Development Proposal

1. Strengthen the definition of “acting in concert”
2. Clarify the definition of “contiguous”
3. Apply unauthorized subdivision penalties to each lot instead of the unauthorized subdivision as a whole
4. Improve information gathering and enforcement at county/municipal level

Strengthen “Acting in Concert”

Clarify the term “acting in concert” (evidence of collaborating to pursue a concerted plan)

- Any entity, individual or combination thereof with any ownership in six or more lots offered for sale or lease in one or more adjoining Sections of Land.



Graphic #1

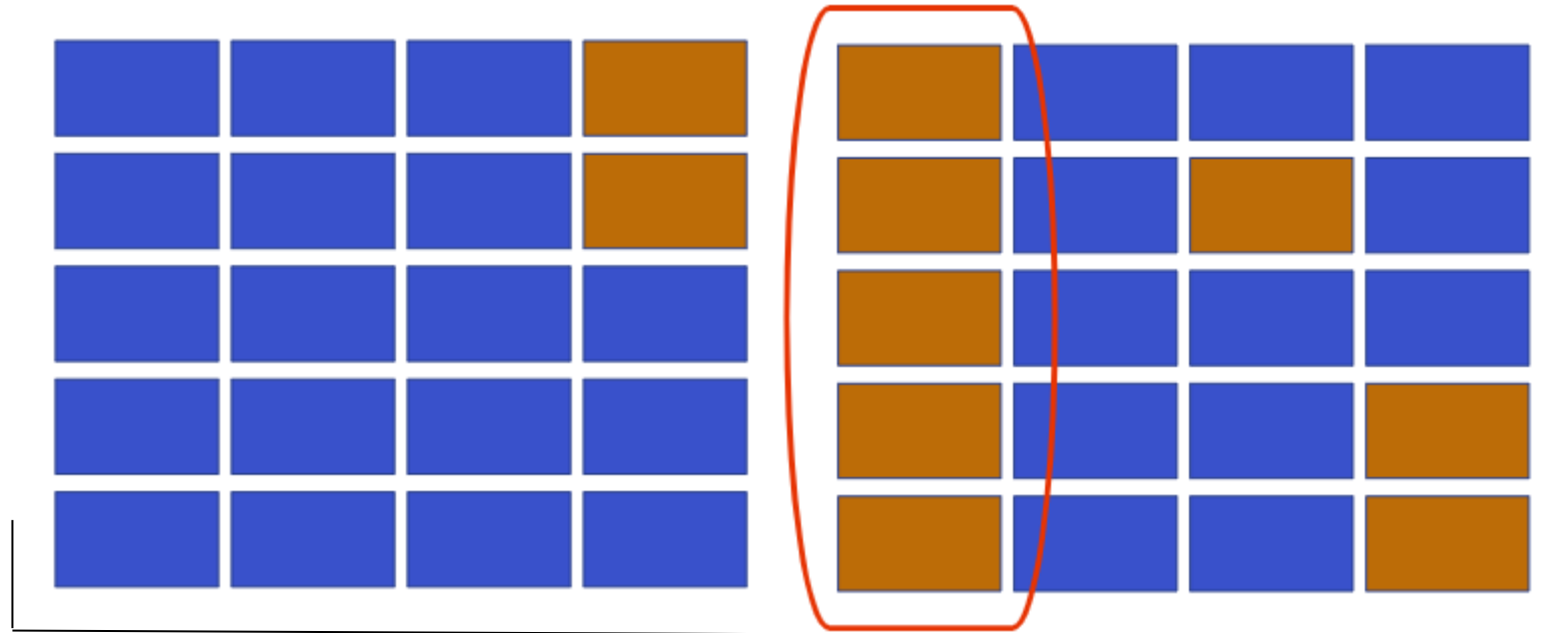
Clarify “Contiguous”

Clarify the current definition of “contiguous” by:

1. Using one or more adjoining Sections of Land (where Sections as determined and defined by the United States Public Land Survey System) for considering whether or not parcels are considered contiguous.
2. Clarifying that lots separated by a "street" or "road" are contiguous.
3. Keeping county, state, and federal highways and other “natural or man-made” barriers that divide parcels as non-contiguous.

Clarify “Contiguous”

Graphic #2: Sections of land

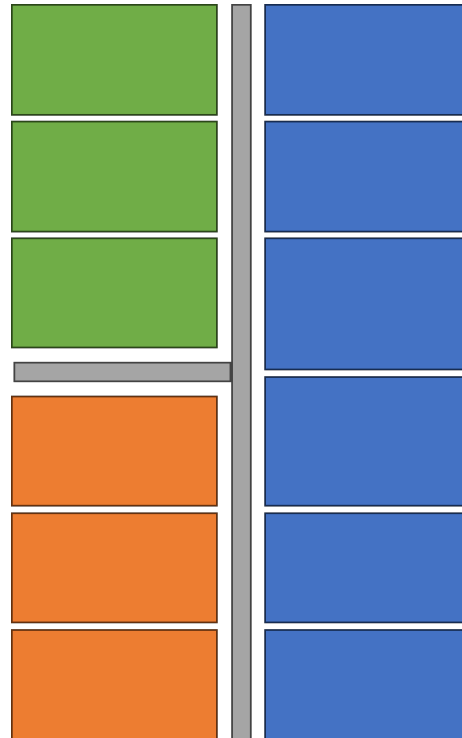


adjoining sections of land

Clarify “Contiguous”

Graphic #3: road/street

separated by
a road/street



subdivision

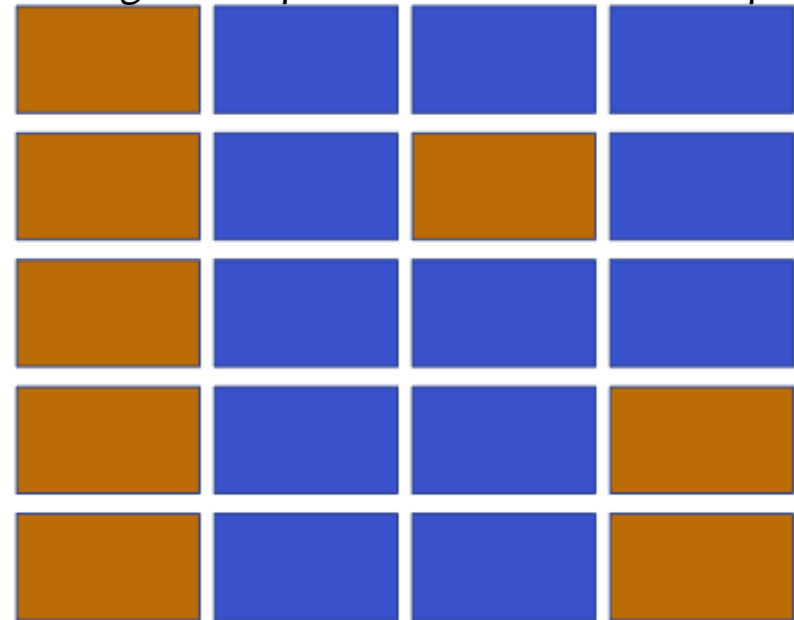
Penalties

Increased Penalty

- ADRE's ability to levy a civil penalty should be applied to each property within a subdivision, not the subdivision as a whole.

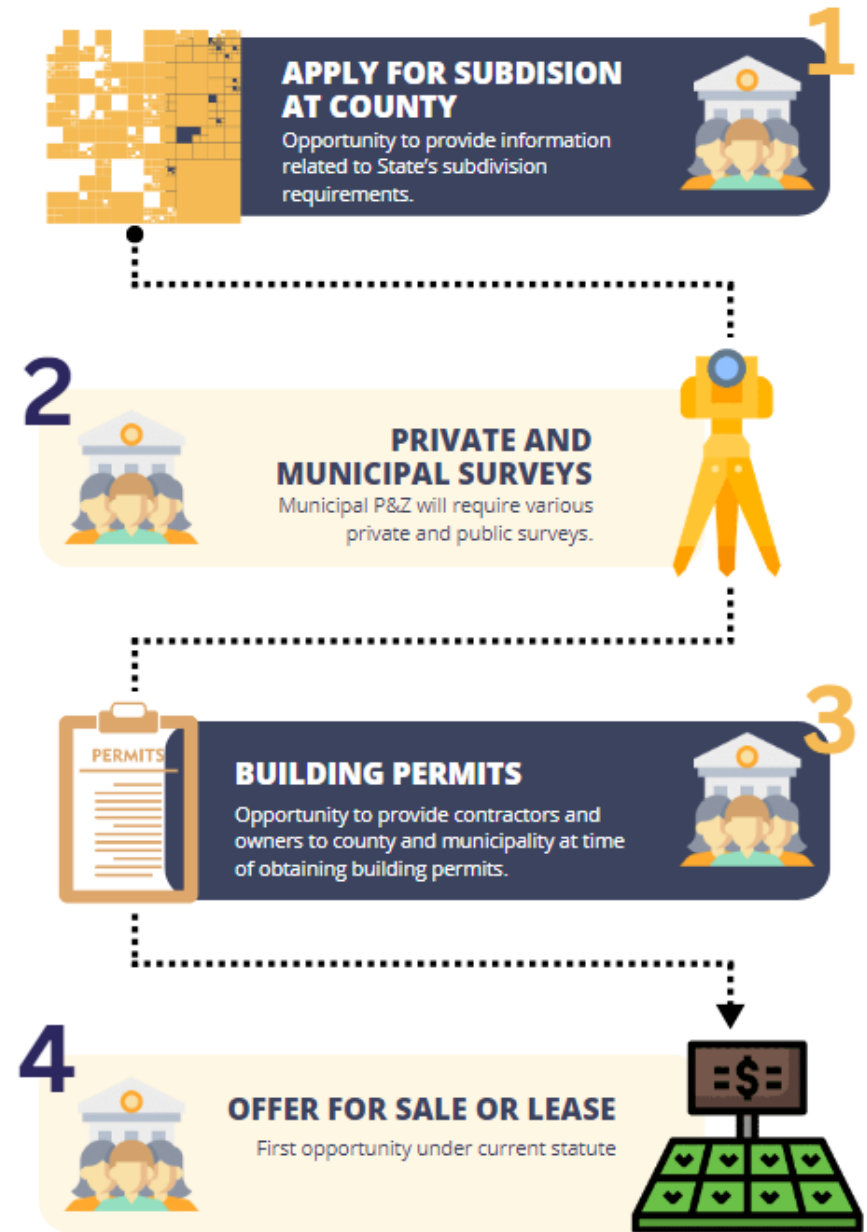
Graphic #4:

orange lots represent common ownership



Timing of Enforcement

- In current statute, neither ADRE, counties or municipalities have jurisdiction to investigate subdivision violations until after the properties are offered for sale or lease.
- Provide authority to counties/municipalities to collect ownership information (LLC, etc.) at the time of subdivision and building permit application.
- Prior to approving a building permit application, officials should be further provided authority to require a subdivider to obtain a subdivision public report based on the ownership information.



Committee Recommendation

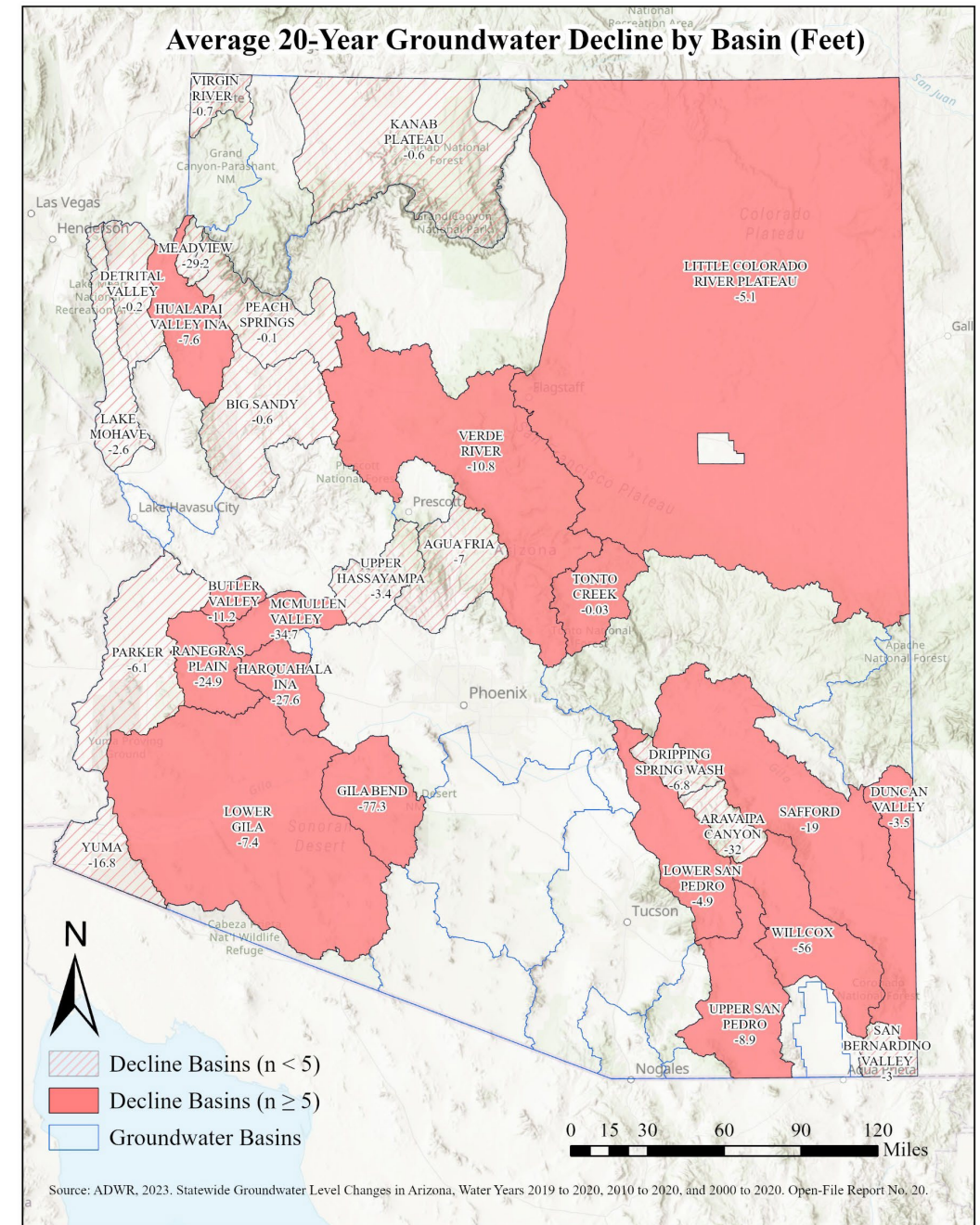
The Assured Water Supply Committee recommends the following statutory changes to address “wildcat” developments:

1. Strengthen subdivision law by clarifying that any entity, individual or combination thereof with any ownership in six or more lots offered for sale or lease in one or more adjoining Sections of land is evidence of “acting in concert”.
2. Clarify the definition of “contiguous” when evaluating if nearby lots constitute a subdivision by:
 - a. Using one or more adjoining Sections of Land as the defined geographic area for considering whether lots are considered contiguous.
 - b. Clarifying that lots separated by a "street" or "road" are contiguous.
 - c. Retaining county, state, federal highways and “natural or man-made barriers” that divide lots as non-contiguous.
3. Apply civil penalties to each lot instead of the unauthorized subdivision as a whole.
4. Provide counties and municipalities authority to:
 - a. Collect ownership information at the time of application for subdivision and building permits, and;
 - b. Require a subdivider to obtain a subdivision public report based on ownership findings.

IV. Rural Groundwater Committee Updates

The Current State of Rural Groundwater

- Outside the AMAs and INAs, there is limited regulatory framework for managing groundwater.
- No requirements for metering and reporting groundwater use outside AMAs and INAs.
- Many communities are facing aquifer depletion with limited access to renewable supplies and no tools to manage the groundwater declines.
- There are increasing calls for a framework that will assist rural communities to manage their groundwater resources.



Rural Groundwater Committee

Goal & Objectives

- By December 2023, develop policy, legislative, or other actionable recommendations for the Governor that provide a groundwater management framework that assists rural communities to manage local groundwater resources, protect water users, and sustainably manage aquifers.
 - These recommendations will assist rural communities outside the state's Active Management Areas (AMAs) and Irrigation Non-Expansion Areas (INAs) in managing local groundwater resources and mitigating further aquifer depletion.
 - These recommendations should be broad enough to apply to any groundwater basin's management needs and customizable to be tailored to a basin's unique characteristics.

Rural Groundwater Committee Process

- ADWR developed a framework to use as a starting point, which was shared with the Committee on August 9th.
- Committee members have been asked to review the framework, reach out to their constituencies, and provide feedback before each meeting.
- At each meeting, the Committee reviewed and discussed components of framework, reaching consensus on high-level concepts.
- ADWR also engaged with committee members in parallel with process.

IV. Rural Groundwater Committee Updates

Rural Groundwater Management Framework

Rural Groundwater Management Framework Key Components

- Designation of “Rural Groundwater Management Area”
- Acknowledgement of Existing Use
- Council Duties
- Council Membership
- Area Goals
- Area Management Plan
- Sunset and Review

Rural Groundwater Management Framework

Designation of “Rural Groundwater Management Area”

- The process for ADWR or local stakeholders to initiate the hearing and designation process for a groundwater basin to become a “Rural Groundwater Management Area”.

Acknowledgement of Existing Uses

- After designation of the “Rural Groundwater Management Area”, ADWR would identify and acknowledge existing groundwater users and uses in the basin from which the area Goals' and Management Plan's progress can be monitored and measured.

Council Membership

- The membership and appointment process of a Council consisting of local stakeholders that represent groundwater users within the regulated area.

Area Goals

- Requirements for the area Goal(s) that will be created for the “Rural Groundwater Management Area” by the local Council.

Area Management Plan

- Required and optional components for the area Management Plan that will include the water management practices and programs tailored to each “Rural Groundwater Management Area”.

Rural GW Committee Notes and Feedback

- All Council member feedback and comments associated with each component of the Framework have been captured from each meeting.
 - This feedback will be utilized in any further development of the Framework details.
- Alternative viewpoints of Council members are also noted for each component and issue.

IV. Rural Groundwater Committee Updates

Measuring and Reporting

Rural Groundwater Measuring and Reporting

- Limited information available for many basins
 - Nearly 24,000 non-exempt wells outside AMAs and INAs
 - Need for additional monitoring and data collection outside of AMAs and INA to increase understanding of the aquifer
- The Rural GW Committee is considering a proposal to enhance the non-regulatory assessment of groundwater conditions and use across rural areas of the state:
 - Additional ADWR measuring, monitoring, and data collection
 - Utilization of emerging technologies
 - Providing financial incentives for voluntary reporting

Rural Groundwater Committee Upcoming Meetings and Next Steps

- Next Rural GW Committee meeting:
 - Thursday, November 16, 10:00 am, ADWR
- Rural GW Committee to review the Rural Groundwater Management Framework proposal and the Measuring and Reporting proposal.
 - If recommended to the Governor's Water Policy Council, these two proposals will be items for discussion and action at the November 29 Council meeting.
- ADWR staff will reach out to AWS Committee members to review the proposals before the November 29 meeting.

V. Additional AWS Committee Concepts

Concepts Discussed & Submitted to AWS Committee

Concepts Previously Discussed:

- Commingling (ADWR concept discussed)
- Future infrastructure (ADWR concept discussed)
- Retiring grandfathered rights (existing mechanism discussed)
- Ag-to-urban conversion / incentivizing conversion

Additional Concepts Submitted to the Committee:

- Policies related to industrial and commercial demand, conservation, reuse, and recharge
- Many others

VI. Next Steps

Upcoming Meetings

Next Governor's Water Policy Council meeting:

Wednesday, November 29, 2023, 10:00 am, ADWR

VII. Closing Remarks

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Governor's Water Policy Council webpage:

www.azwater.gov/gwpc

