

Assured Water Supply 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.

Principles

The following principles were established to align proposals with the Assured Water Supply Program and the objective and intent of the AWS Committee.

- 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.

Proposal Concepts

Initial proposal concepts provided by ADWR staff at the June 27, 2023, AWS Committee meeting, concepts suggested by committee members at that meeting, and concepts submitted after the meeting follow below.

Concepts are provided as submitted. Inclusion does not constitute endorsement. ADWR and the AWS Subcommittee will evaluate the concepts for consistency with the AWS Committee objective and the State's principles of responsible water management. ADWR and the subcommittee will discuss and prioritize the concepts, with the goal of selecting the most promising concepts for further discussion and development into potential proposals for the committee to consider as recommendations to the Council. The subcommittee is encouraged to consider what can realistically be tackled in the five months ahead when prioritizing. Discussion and development of a concept does not presuppose it will ultimately be viable, including ADWR concepts.

ADWR Initial Concepts

Commingling

Challenge

An applicant for a certificate or analysis relying on water delivered through a provider's commingled system must demonstrate the physical availability of any groundwater delivered through the system, even if the applicant or water provider brings a new non-groundwater supply into the system.

Even with sufficient renewable supplies for the proposed new subdivision, in some instances development cannot move forward because the water delivered to the proposed new subdivision will also include groundwater.

This requirement is intentional, as homeowners in the new subdivision would not have an assured supply because they would bear the risks of groundwater shortage, designed to be avoided by the AWS program.

ADWR Initial Concept

- Applicable to proposed subdivisions within a service area/water system that:
 - Are not designated as having an AWS (i.e., applications for analyses or certificates).
 - Include groundwater as a water supply.

- Include unmet demand within the service area.
- A developer bringing in an alternative supply to support a new subdivision must secure an equivalent volume available to the water provider to help reduce unmet demand within that provider’s service area.
- Allowing new growth to proceed this way will incentivize and enable the use of alternative supplies and protect the integrity of the AWS program for all consumers.

Committee Comments

- Consider allowing *providers* to pledge unallocated CAP supply or effluent to a new CAWS. (Dunham)

Wildcat & Build to Rent Development

Challenge

Residential development that does not meet the definition of a subdivision – six or more parcels for sale or lease, excluding rentals of one year or less (ARS §32-2101) – circumvents the AWS requirements and the pause on additional development.

Wildcat and build to rent developments do not have the consumer protection of an assured water supply. Continued development without an assured water supply exacerbates groundwater mining, puts homeowners at risk, and feeds negative perceptions of Arizona’s ability to manage water supply.

ADWR Initial Concept

- Define residential lease community (six or more units, etc.)
- A city or County shall not approve a building permit for one or more detached residential dwelling units that are located in a residential lease community within an initial AMA unless the units have obtained a certificate of assured water supply or a written commitment of water service from a designated provider.
- Ensure all applicable fees are paid (CAGR).
- Strengthen "acting in concert" provisions.

Future Infrastructure

Challenge

Alternative water supplies may require substantial infrastructure development in order to make the supplies physically, continuously and legally available, and infrastructure construction can take many years to complete. Financing of that infrastructure may be linked to the new customers the water is intended to serve.

Certificates have not traditionally allowed for construction of future infrastructure because a certificate of assured water supply analysis is a “snapshot” of existing water supplies.

ADWR Initial Concept

- Modify AWS rules to allow issuance of certificates based on future infrastructure construction.
- Identify requirements that must be met before and after issuance of certificates (e.g., five-year construction plan, issuance or completion of necessary permits and approvals, financial assurances, etc.)
- Include milestones for infrastructure completion.
- Provide for expiration of certificate if milestones are not met.
- Broaden financial capability requirements for certificates to include posting a performance bond for the benefit of the platting authority (and/or water provider).

Committee Concepts Submitted as Comments at the June 27, 2023, AWS Committee Meeting

Commercial and Industrial Development

Challenge

Certain commercial and industrial sites (individual users) that do not receive water from a designated provider or are not part of a subdivision or master planned community are not subject to AWS requirements. If these facilities rely on groundwater sources, this can exacerbate groundwater mining in the AMA.

Committee Concepts

- Consider a hybrid AWS concept for a new industrial user--not necessarily including a consumer protection piece--where there is unmet demand, have a water permitting review that evaluates the impact of the new proposed use to protect existing users/existing subdivisions. (Dunham)
- Committee should evaluate whether commercial and industrial sites should be subject to AWS requirements. (Ferris)
- Support expanding AWS requirements beyond just housing and certain commercial developments. (Sen. Priya Sundareshan)

Housing Developments on Agricultural Land

Challenge

Agriculture typically consumes far greater amounts of water than residential and commercial development. The intent of the GMA was to drive growth on retired agricultural land, reducing groundwater demand as land was converted. Ag land also has unmet demand. Converting from ag to housing use may lessen unmet demand, but it may still be difficult to achieve the principles.

Concepts

- Develop a more sophisticated mechanism to channel housing growth toward agricultural lands within AMAs and free up water. (Ferris)
- Implement incentives to build residential housing on irrigated agricultural land within AMAs. (Kamps)
- Create a hybrid AWS designation, a designation that is geographically limited within a provider that is not wholly designated. It would be based on things like an irrigation district's footprint. For instance, an irrigation district with a surface water allocation that you could convert within the designated area, within a non-designated provider, that would push development to those ag lands. (Dunham)

Other Ideas

Committee Concepts

- Review CAGRDR replenishment, including the hydrologic disconnect between pumping and replenishment. (Sen. Sundareshan)
- Review grandfathered rights, irrigation or non-irrigation. (Sen. Sundareshan)
- Consider extending AWS requirements to all users. (Sen. Sundareshan)
- Review exempt wells. (Sen. Sundareshan)
- Review private wells and lack of data. (Rep. Gail Griffin)
- Focus on rainwater harvesting, recharge, and conservation. (Rep. Griffin)
- Funding available for augmentation, infrastructure, and conservation. (Rep. Griffin)
- Eliminate AWS analyses. They are not in statute. (Ferris)
- Revise 1000' bls or bedrock limit in rules. (Ferris)

Committee Concepts Submitted In Follow Up To the June 27, 2023, AWS Committee Meeting

From: **Joseph Olsen** <jolsen@metrowater.com>

Date: Sat, Jul 1, 2023 at 8:31 AM

Subject: AWS Committee Proposals from Tucson Water and Metro Water

To: Carol Ward <cward@azwater.gov>, bhallin@azwater.gov <bhallin@azwater.gov>, <tblomberd@azwater.gov>

Cc: Scott Schladweiler <Scott.Schladweiler@tucsonaz.gov>, John Kmiec <john.kmiec@tucsonaz.gov>, Wallace Wilson <wwilson@metrowater.com>, <tbuschatzke@azwater.gov>

Carol/Bruce/Trent,

Thank you for an opportunity to submit proposals/concepts to strengthen the assured water supply program. Tucson and Metro have collaborated on a couple of recommendations that, while not strategically impacting the overall AWS program, would enable and/or enhance access to water resources that could be utilized by primarily entities with a DAWS and supports one of the policy goals of Governor Hobbs to ensure robust economic development in AZ without the need to mine groundwater. We understand that these two concepts may not be applicable to the current line of effort, given the strict timeline available, but we wanted them added to the overall list given the need to leverage all water resources in Arizona as we face long-term uncertainty on the CO River.

1) Remediated Water Enhancements

Currently no new treatment facilities, beyond those that have already been approved, are eligible to obtain a remediated water exemption. We understand that the focus of the sunset on remediated water facilities was because some entities were trying to pursue treatment of natural constituents (arsenic, nitrate, etc.) as being eligible for such remediated exemptions. While we agree that natural constituents should not be eligible for remediated designations, there is increasing focus on treating PFAS compounds and other non-natural contaminants. Given 2022's reduced PFAS health advisory levels, and the proposed MCLs for PFAS compounds that are in process of finalization, we need to find a way to utilize this impaired water that would otherwise be unavailable for potable use. Also, not capturing this impaired water could further impair downgradient portions of Arizona's precious groundwater resources.

There are certainly numerous key details that would need to be addressed on this proposal. One such aspect is that the remediated water treatment sites are typically designated as WQARF or Superfund locations. Given the pervasive identification of PFAS compounds throughout the numerous contaminant plumes impacting the aquifer, the limiting to only such designations could potentially prevent agile incorporation of this policy change. As such, we are willing to help navigate what limitations should be put in place to prevent an unintended expansion of this program beyond what would be beneficial to addressing known non-natural contaminants while also enabling access to portions of the impaired aquifer. Doing so would enable the use and treatment of this impaired water that would enhance the DAWS portfolio without reliance on solely mining already potable groundwater.

2) Managed Recharge Enhancements

Under the current Lower Santa Cruz Managed Recharge Project, Tucson Area municipal water providers and Pima County discharge effluent into the river to obtain recycled water credits. While there are numerous cuts to the recycled water that the providers ultimately receive, due to evaporation, diversions, Indian Rights Settlements, flows outside the AMA (past Trico Road in our case); the focus of this item is modifying how rain days impact recharge calculations.

Under the current permit/guidance for managed recharge projects, whenever there is a rain event of any duration, no effluent recharge is calculated/credited in the river for that entire day. This does not make sense given that the effluent does not stop being discharged to the river when it rains. We understand that the reason this clause was originally created was to prevent the providers from benefiting from Mother Nature's natural recharge activities. While understandable, regardless of how much it rains, the effluent is still being discharged to the river.

To ensure providers are properly leveraging this renewable water supply, that is an important element of a provider's DAWS, it is recommended that on a rain day the recharge activity does not drop to zero, rather, recharge credits are granted based on the recharge of either the previous non-rain day or a calculation of the average recharge per day over a longer duration.

These modifications would have the result of enhancing the provider's DAWS with renewable recycled water and remediated water, supporting the Governor's policy goal of economic development in Arizona without reliance on mined groundwater.

Thanks,

Joe (and on behalf of Tucson Water and Metro Water)

Joseph Olsen, P.E.
General Manager
Metropolitan Domestic Water Improvement District
6265 N. La Cañada Drive
Tucson, Arizona 85704
Phone: 520-575-8100

From: **Warren Tenney** <wtenney@amwua.org>

Date: Thu, Jul 6, 2023, 1:19 PM

Subject: Re: AWS Committee Update & RSVP

To: Trent Blomberg <tblomberg@azwater.gov>, Carol Ward <cward@azwater.gov>, Bruce Hallin <bhallin@azwater.gov>

Cc: Tom Buschatzke <tbuschatzke@azwater.gov>, John Riggins <jrriggins@azwater.gov>, Patrick Adams <padams@az.gov>

Trent,

Thank you for this information. I do plan to attend the July 13th meeting.

Please find attached two concepts that we would like the Committee to consider.

Warren

1. Industries have used Type 1 and Type 2 non-irrigation grandfathered rights (GFRs), as well as general industrial use permits (GIUPs), to drill wells and pump groundwater for industrial facilities in the AMAs. Some of these industrial facilities are located within the corporate limits of a municipality or the CC&N of a private water company. The use of GFRs and GIUPs by industrial users furthers unreplenished groundwater pumping within the AMAs and could impact a municipal water provider's ability to maintain an assured water supply for its customers.

ADWR should provide more information on the following questions so that the Committee can better understand the scope of this problem and then develop solutions:

- Does ADWR maintain a registry of currently unused Type 2 Rights?
 - Is ADWR still issuing GIUPs?
 - How much groundwater is currently being pumped by industrial users utilizing non-irrigation GFRs and GIUPs in each AMA?
2. Land use planning is an important aspect of water management. The Committee should evaluate the role that counties have or could have in considering the existence of an assured water supply before approving development in unincorporated areas within an AMA. This evaluation could focus on the criteria a county must consider before approving zoning changes, approving master planned developments, or issuing building and other use permits.

From: **Gail Griffin** <GGriffin@azleg.gov>

Date: Friday, July 7, 2023

Subject: Assured Water Supply Committee

To: "tbuschatzke@azwater.gov" <tbuschatzke@azwater.gov>

Cc: Daniel Schwiebert <DSchwiebert@azleg.gov>, "balteneder@azwater.gov" <balteneder@azwater.gov>, Emily Stokich <ESTokich@azleg.gov>, Gail Griffin <griff4333@gmail.com>

Good morning,

I have attached a letter to this email referencing my proposals to be considered by the Governor's Assured Water Supply Subcommittee.

Respectfully,

Representative Gail Griffin

AZ House of Representatives

LD-19

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Arizona House of Representatives

1700 West Washington
Phoenix, Arizona 85007

July 7, 2023

Thomas Buschatzke, Director
Arizona Department of Water Resources
1110 W. Washington St., #310
Phoenix, AZ 85007

RE: Proposals from Representative Gail Griffin for Consideration by the Governor's Water Policy Council, Subcommittee on Assured Water Supply

Dear Director Buschatzke:

Without waiving my right to submit additional proposals, I want to offer my initial thoughts and ideas to the Governor's Water Policy Council, Subcommittee on Assured Water Supply (AWS Committee) for full consideration.

In addition, I write to state my objection to the purported adoption of the content on slides 14 through 16 and 33 of the Department's June 27 AWS Committee meeting PowerPoint,¹ which claim to establish a set of "principles" for the committee and state that the Department will not "post" any proposal unless the proposal is "consistent" with these "principles."

The alleged "principles" stated on slide 16 include the following:

- Proposals must protect the strength and integrity of the AWS 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.

As a state lawmaker and elected representative for over 15 years, I understand that successful adoption of complex policies is rarely accomplished through the unilateral demarcation of terms, but rather through the collaborative process where shared values and principles can be developed organically from the people. For these reasons I am disappointed to see that our ability as a committee to consider all ideas and perspectives, free of judgement and discrimination, has been diminished by the unilateral establishment of the principles above.

Where did these "principles" come from? Who developed them? And why weren't they brought to our attention before their adoption? Who gets to decide which proposals are "consistent" with the purported principles? Is it the Director of ADWR; and if so, then why is it not the collective members of the AWS Committee?

The set of principles creates a clear anchoring bias that favors one viewpoint over others and precludes the committee from considering other, potentially new and innovative ideas if they do not go along with

¹ https://www.azwater.gov/sites/default/files/20230627_AWS_Comm_Meeting.pdf.

preconceived notions. It signifies that the genuine opinions of the AWS Committee are not valuable, and that the outcome of this process has been predetermined.

I believe that any prejudgment in the development of recommendations for the AWS Committee would be contrary to the spirit and intent of this process. As a diverse and multifaceted group with goals and objectives from many backgrounds, we must have an opportunity to determine, for ourselves, what our shared values and principles are, not have them hand-picked and summarily determined for us.

As a member of the Arizona House of Representatives, I believe that the ideas and proposals that stem from the values and principles of my district should be given full consideration by the committee. Accordingly, I request that *all* of my proposals be "posted" and considered by the AWS Committee, regardless of their perceived "consistency" with the alleged principles.

As state leaders, I believe we should support the continued growth of our state's economy and welcome all new businesses and people to the state, whether they choose to locate within or without a designated service provider. This is one of my guiding principles.

I also believe that no proposal should be allowed to shut down our state's economy or preclude growth outside of designated providers if the growth can demonstrate minimal impact to the groundwater table. This includes rental communities, which I believe need to meet the same groundwater replenishment obligations as other single-family residences, which is what I proposed in H.B. 2445. The committee should have had an opportunity to consider and adopt this principle before the slides were given to us on June 27.

I also believe that we should consider and explore all activities that can help to implement realistic water savings in active management areas and that focusing on voluntary conservation measures of commercial and industrial users will be key if it can help us reduce unmet demand in future groundwater models. I believe that the goal to achieve meaningful AWS benefits through voluntary efforts, rather than through strict government mandates, should have been another principle for the committee to consider on slide 16.

I believe we must continue to support and encourage the ongoing reuse and recharge of critical groundwater resources and effluent and that this effort requires us to identify the level of reuse and recharge that commercial, industrial, and municipal users are already engaging in, so we can replicate their efforts across all water users. I believe the effort to treat all water users equally and fairly in the development of potential proposals is another principle that should have been articulated on the June 27 slide.

Most importantly, I believe in the protection of private property rights and individual liberty, and that the right to be self-reliant, live off the land, and build a home or start a business in the location of one's choosing—free from government interference—should not be infringed. This has been a guiding principle for most of my years in public service, and I believe that the committee should not be allowed to consider any proposal that would interfere with these rights.

Accordingly, although there may be many other options and proposals to consider, I request that the AWS Committee consider and thoroughly evaluate the following proposals and retain my right to propose others in the future:

- **Encourage development that does not impact groundwater tables.**
- **Establish a Commercial & Industrial Water Conservation Best Management Practices Program and Advisory Committee.**

- **Require build-to-rent developers to meet groundwater replenishment obligations.**
- **Require all commercial and industrial users to demonstrate onsite reuse and encourage commercial and industrial users to engage in aquifer recharge.**
- **Incentivize voluntary conservation and reuse.**
- **Incorporate effluent and replenishment into future groundwater models.**
- **Make the groundwater model a living, ongoing document and require the department to update it every time new supply and demand data are available.**
- **Allow certificate holders and designated providers to submit updated water demand levels if the amount of actual demand is less than originally predicted in the certificate or designation.**
- **Allow actual and estimated future reductions in water demand that result from water conservation measures and efficiencies to count toward the groundwater model.**
- **Encourage the reduction of unreplenished groundwater use by designated providers.**
- **Require all municipalities and private water utilities to recharge their effluent.**
- **Require municipalities to conduct rate audits for all current rates to demonstrate the actual costs of service to ratepayers and ensure that municipalities are using ratepayer funds appropriately, are not overcharging customers by including the costs of non-utility related services, and are adequately reinvesting in future water infrastructure.**
- **Incentivize and streamline the permitting and construction of groundwater recharge facilities, stormwater retention basins, and permeable infrastructure to promote groundwater recharge and infiltration.**
- **Authorize "hybrid" Designations of Assured Water Supply for municipalities.**
- **Expand access to Harquahala Transfer Basin to benefit all residents in the AMA.**
- **Strengthen disclosure requirements to enhance consumer protection.**

I believe each of the proposals set forth above are consistent with my personal guiding principles, as well as those of my fellow committee members and the constituents of Legislative District 19.

I thank you for the opportunity to submit these initial thoughts and ideas and respectfully request you "post" them for full discussion and consideration by the AWS Committee. Thank you.

Respectfully,



Gail Griffin,
 Representative, Legislative District 19
 Arizona House of Representatives

From: **Kathleen Ferris** <kathleenferris22@gmail.com>
Date: Fri, Jul 7, 2023 at 9:42 AM
Subject: Proposals for AWS Committee
To: Trent Blomberg <tblomberg@azwater.gov>
Cc: Carol Ward <cward@azwater.gov>

Hi Trent (and Carol),

Attached are some additional proposals for consideration by the AWS Committee (now subcommittee).

Please let me know if you have any questions.

Best,

Kathy

**Governor's Water Council
Assured Water Supply Committee**

Additional Proposals

July 7, 2023

Analysis of Assured Water Supply (Analysis)

Amend R12-15-712 to provide that the Director shall not extend an analysis if the Director has found an unmet demand exists for the AMA in which the analysis was issued.

Physical Availability of Groundwater

Amend R12-15-716 to reduce the maximum 100-year depth-to-static water level to 800 feet in the Phoenix AMA (and perhaps other safe-yield AMAs). This would help protect the quality and long-term availability of groundwater supplies for municipal water providers and prevent collateral damage caused by excessive groundwater pumping.

Central Arizona Groundwater Replenishment District (CAGRDR)

Require CAGRDR to:

1. Replenish water in the same locations where groundwater is pumped for its member lands and in the same volumes. Prevent the sale of lots in new subdivisions in locations where the necessary replenishment facilities are not in place.
2. Undertake a more rigorous evaluation of how much water for replenishment is realistically available given climate change, Colorado River shortages and competition for renewable water supplies.

----- Forwarded message -----

From: **Dunham, Doug** <DDunham@epcor.com>

Date: Fri, Jul 7, 2023 at 4:42 PM

Subject: Proposals for discussion

To: tblomberg@azwater.gov <tblomberg@azwater.gov>

Cc: Carol Ward <cward@azwater.gov>, bhallin@azwater.gov <bhallin@azwater.gov>, John Riggins <jrriggins@azwater.gov>, padams@az.gov <padams@az.gov>

Trent –

Please see attached proposals for discussion by the AWS Committee. In compiling these I reached out to multiple entities including designated providers (AMWA, Phoenix, Tucson etc.) non-designated cities (Queen Creek, Buckeye), private utilities, and members of the development community. I tempered many of the suggestions with my experience in what would be feasible in the AWS program and compiled the suggestions attached. They are not fully formed but concepts to spur discussion for more fully formed proposals. First of all I wanted to address the unmet demand which is driving the comingling issue which is preventing us from transitioning to renewable supplies for CAWS. Secondarily, if the unmet demand cannot be fully addressed a proposal to address the comingling review process. Other provisions to expand designations and increase conservation are also included.

Look forward to more discussions starting next Thursday.

Douglas W. Dunham

Water Resources Manager

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7-7-2023

**Governor Water Council
Assured Water Supply Committee
Concept topics for Committee discussion/consideration**

Comments/Suggestions on ADWR proposals

Comingling-

I appreciate the Department attempting to address this issue. However the proposal is still lacking. The rules as currently written do allow for non-groundwater supported CAWS to be issued within groundwater dominant systems. This precedent has been well established with CAWS having been issued for subdivisions served by water providers with existing comingled water mixed in their water delivery systems, including:

- Town of Cave Creek (groundwater and CAP water)
- Town of Queen Creek (groundwater and CAP water treated by another provider)
- Arizona Water Company – Apache Junction (groundwater and CAP water treated by another provider)

The assured water supply rules do not require review of other water sources not relied upon by the applicant. In other words another land owners CAWS reliant upon groundwater, with or without unmet demand, has no bearing on the new applicant not relying upon groundwater.

Building upon the Department's proposal I offer for consideration and discussion the following proposal:

- Proposal concept would be limited to within non-designated service areas to support AAWS & CAWS where the system has groundwater as a portion of the water supply.
- For systems without unmet demand applicant demonstrates new non-groundwater supply sufficient to meet projected demands of the project.
- For systems with unmet demand, applicant demonstrates new non-groundwater supply sufficient to meet projected demands of the project plus a cut to the aquifer to match the % of unmet demands within the system.
- Alternate water supply (non-groundwater supply) can be held by the developer or the water provider and include effluent expected to be generated by the proposed development. Renewable supplies held by a water provider that are not already pledged to an AWS should be allowed to be pledged to the new development.
- Applicant will need to demonstrate that the use of the alternate supply meets AWS criteria (direct delivery, recovery within the area of hydrologic impact etc.).

The Department has stated that the main driver of the comingled supply concern is the existence of the unmet demands within the model. An alternative approach would be instead of modifying the existing AWS program and review procedures to address comingled supply concerns, is to address the unmet demand itself. The majority of this could be accomplished without modifications to rule or statute, and if not completely successful longer-term programs could be developed to dedicate supplies for the unmet demand shortfall. This then would allow for importation of renewable supplies to support new CAWS and reduce reliance on groundwater without the issue of comingled supplies being a barrier.

Modeling Demand Review

Normally when conducting AWS modeling the assumed demands used for issued determinations of CAWS & AAWS rely upon the issued demand. These assumed demands most often rely upon a generalized calculator made available by the Department (AWS demand calculator). These estimated demands are based on idealized and averaged uses across the AMA. These average estimates have changed over time. We know that real world uses are less than these estimates as both development practice and conservation efforts have reduced demands (ADWRs own data shows we still use less water today than in 1957). Real world use information should be used instead of these gross estimates and in doing so would also capture changes in supply not reflected in the original determinations such as effluent.

Proposal:

- For CAWS that have been built out for five years or more use the average groundwater demand for the last five years as reported to the CAGR. D.
- For AAWS, and CAWS that are either not fully built out or have been built out for less than five years use the most recent ADWR AWS demand calculator and adjust demands accordingly.

Real world modeling inputs

Ensure the model reflects reality instead of short-cut assumptions put in modeling done 10-20 years ago, to address unmet demands. Specific model inputs:

- Ensure existing effluent use is accounted for
- Ensure AWS associated wells are located correctly, have maximum aquifer depth represented, and existing wells within a service area are appropriately supporting AWS demands in the model.
- CAGR replenishment is reflected in the model.

Assured Water Supply AAWS Review; legal and continuous availability-

When locating projected wells for AAWS applications in the hydrologic models DWR has restricted locations of wells to be only on the AAWS property. In most cases, although not expressly identified, the mostly likely water provider is known. Whether the AAWS is located within the incorporated limits of a city or town or they are located in an existing CC&N the most likely provider is known. It is nearly impossible for another entity serving water to be established within these areas. It should be understood that the entirety of these service areas will be available to support the project. Given the secondary review ADWR has when issuing the final CAWS, ADWR has the ability to ensure that in order for the AAWS to remain valid these assumptions (projected well locations, assumed water provider etc.) remain in place. Lastly, both municipalities and private utilities have similar authorities to obtain well sites and infrastructure easements to allow appropriate well locations to be secured.

Proposal:

- When conducting AAWS modeling reviews for physical availability ADWR shall consider projected wells located within the incorporated limits of a city or town and projected wells located within the CC&N of a private utility to be legally and continuously available for the 100-year review period with permission of the utility.

- If a private utility has a pending CC&N expansion application on file with the ACC, for the purpose of the AAWS review, ADWR shall consider the proposed expansion area to be part of the existing CC&N.
- ADWR retains the authority to invalidate the AAWS if the appropriate well sites have not been obtained at the time of subsequent CAWS applications.

Additional Programmatic Considerations for Unmet Demand

If the above modeling assumptions are insufficient to address the projected unmet demands, additional programs should be considered to address unmet demands:

Proposal:

- A Water Use or Development Fee to support-
 - Agricultural conservation programs for increased irrigation efficiencies, crop rotations, alternative lower water use crops etc. Conserved groundwater volumes reserved to address unmet demand volume.
 - Infrastructure upgrades. Small isolated systems with unmet demands on the margins of the basin would receive funding for construction of interconnects to systems without unmet demands to ensure access to sufficient supplies to cover projected shortages.
 - Provide funding to obtain additional water resources and partner with Water Bank, CAGR or others for recharge or direct delivery to cover projected unmet demands.

DWR Infrastructure proposal- existing statute for reference and discussion

Mandatory Water Adequacy exemption A.R.S. 45-108.03. (2010)

Allows for an interim water supply to be substituted if appropriate supplies and infrastructure are available within 20 years.

Additional Proposals for Discussion

In addition to the above comments on the DWR proposals, I offer these new proposals for discussion and consideration. These proposals are a combination of discussions and ideas from various entities. The proposals are not fully developed and are concepts offered for further discussion and development.

Nested Designation (to support AG conversion)-

Historically, extinguishment credits were established to encourage development on farmland. However, very little development decisions were based on this function of the AWS rules. It also contributed to additional un-replenished groundwater pumping. Development within a DAWS is often easier than obtaining individual CAWS, which hopefully encourages development on these AG lands over lands without historically irrigated acres. This may also help with the Departments concerns regarding comingled supplies due to the unique legal constraints of the surface water source.

Proposal:

- For non-designated water providers with irrigation districts within their municipal boundary or CC&N.
- Irrigation district holds surface water rights; surface right is tied to the land and cannot be transferred without DWR review and approval of a sever & transfer.

- Designate the aggregate volume of available surface right within the non-designated provider, limited geographically to the district boundary.
- DAWS status is not transferable to non-district lands elsewhere in the service area.
- All AWS DAWS criteria would need to be met under the current rules including physical and continuous availability for the ‘nested DAWS’ area within the larger service area.

Hybrid Designation-

There are many challenges to get new designations completed. While many private utilities and smaller municipalities would pursue DAWS status several impediments exist. One of the major hurdles is the legacy groundwater use from either subdivisions that predate the AWS rules or uses that fall outside of the subdivision definition. Under the current DAWS process, all of these demands needs to be brought under the new DAWS. In addition, some current providers that may wish to be designated did not exist during the original CAP allocation phase or were so small the allocations have long been exceeded by growth. Historically, for private utilities, the ACC was not supportive of the effort and expense of obtaining a DAWS. The commission has since moderated this view in favor of longer-term water management. When the original AWS rules were promulgated, similar issues were addressed at the time to allow the existing providers to transition from reliance on groundwater to the renewable supplies under a DAWS. These included: grandfathering of pre-1980 groundwater demands, three free years of groundwater use, and various exemptions to be included in the providers ‘groundwater allowance’. The Hybrid Designation proposal would similarly grandfather in some of the legacy groundwater pumping but in doing so would stop new growth of non-CAWS demands on un-replenished groundwater.

Proposal:

- For portions of the system that serves existing CAWS and member lands, member land reporting and replenishment continue as under CAWS.
- Existing non-AWS demands are grandfathered in similar to the pre-1980 existing groundwater demand under the original 1996 AWS rules (groundwater allowance).
- New growth areas under hybrid DAWS would demonstrate physical availability and the remainder of current AWS criteria as any new or renewed DAWS for the entirety of the projected new growth.
- New demands under the hybrid DAWS areas would be made consistent with the goal through use of renewable supplies or as member service area of the CAGR. Note that the limitation of groundwater availability under AWS will limit the volume of MSA/GRD increased demands.

New Industrial Use review-

New industrial uses increase un-replenished groundwater use and can be particularly disruptive when located in or adjacent to water providers serving AWS areas. This is true for both CAWS and DAWS. Historically, approvals of these types of commercial projects usually had no water use impact review and typically were limited to standard zoning/land use reviews without any regard to existing water users or aquifer impacts.

Proposal:

- For new industrial uses within an AMA, served by non-designated provider, or new industrial use within an AMA served by a Type-1 GFRs, a Type-2 GFRs, or a new GIU (not renewal of existing GIU) within 5 miles of a service area.
- New use shall demonstrate that the impact of the proposed new use will not negatively impact existing AWS determinations based upon the expected demands of the facility for the projected life of the facility.
- The new industrial user shall make 50% of their groundwater demand consistent with the management goal by methods available to assured water supply determinations.

WaterBUD exemption-

Historically the intent of WaterBUD was to encourage water providers to use CAP instead of continued use of groundwater. With the groundwater limitations for new AWS, WaterBUD now only serves as an impediment for new uses on renewable CAP. Multiple non-designated water providers hold CAP allocations. In many cases the best use of these supplies, and often the only financially feasible way to make use of these non-groundwater supplies, is through storage and recovery of long-term storage credits. There are also various cooperative agreements that can be leveraged to make use of existing storage credits that non-designated providers are prohibited from participating in due to WaterBUD. Without WaterBUD constraints, these supplies could then be used to support CAWS that do not rely upon groundwater.

Proposal:

- Additional limited exemption within WaterBUD.
- Water providers serving member lands of the CAGR are exempted from the provisions of WaterBUD for CAP storage for LTSCs and holding and transferring of LTSCs.

From: **Priya Sundareshan** <PSundareshan@azleg.gov>
Date: Sun, Jul 9, 2023 at 2:38 PM
Subject: RE: AWS Committee Proposals on Monday
To: Trent Blomberg <tblomberg@azwater.gov>, Carol Ward <cward@azwater.gov>
Cc: Bruce Hallin <bhallin@azwater.gov>, Tom Buschatzke <tbuschatzke@azwater.gov>, Patrick Adams <padams@az.gov>

Thank you for the reminder, Trent. Please find attached additional proposals to include in Monday's materials.

Regards,

Senator Priya Sundareshan | District 18
Arizona State Senate
602-926-3437
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Proposals for Assured Water Supply Committee of Governor's Water Policy Council

Please find below proposals that meet the Committee's task to **strengthen** the Assured Water Supply program. Any proposals that the Committee evaluates **must** meet the principles ADWR outlined.

Wildcat and Build to Rent developments

- Define residential lease community as 2 or more detached single-family residential units without regard to lease term, and require certificate of AWS.
- Revise the definition of subdivision to 2 or more lots, to minimize circumvention of AWS requirements.

Grandfathered Rights within AMAs

- Implement existing ADWR authority to purchase (or coordinate purchase by third party) and retirement of grandfathered rights which pump groundwater within AMAs without replenishment.
 - This may include partial retirement of portions of the grandfathered rights no longer needed due to water efficiency gains in industrial or agricultural sectors.
 - Housing development may be prioritized as a third party purchaser of such rights.

Central Arizona Groundwater Replenishment District (CAGRDR)

- Require replenishment in the same part of the aquifer as groundwater is being pumped from for development to proceed.

Exempt Wells within AMAs

- Require data from exempt wells on the volume of groundwater pumped within AMAs, and submission to ADWR to collect and publish, in order to maintain exempt well status.
- Revise well exemptions from being based on a maximum flowrate to a de minimis total volume pumped annually.

Evaluation and Revocation of Certificates and Designations

- Under AAC R12-15-703 through -711, determine whether any certificates or designations should be revoked due to failure to comply with AWS requirements.

Aim for statewide groundwater sustainability

Require an Assured Water Supply for the entire state so citizens can be secure in their property and investments over a minimum of 100 years.

From: **Cheryl Lombard** <clombard@valleypartnership.org>
Date: Mon, Jul 10, 2023 at 3:20 PM
Subject: RE: AWS Committee Proposals on Monday
To: Trent Blomberg <tblomberg@azwater.gov>
Cc: ggammage@gblaw.com <ggammage@gblaw.com>, Patrick Adams (padams@az.gov) <padams@az.gov>, Bruce Hallin <bhallin@azwater.gov>, Carol Ward <cward@azwater.gov>

Hi there –

Attached please find the concepts we would like to put forward for further discussion with the Assured Water Supply Program Committee. We appreciate this opportunity and looking forward to looking and discussing all of the concepts.

Unfortunately, since there is not a virtual option for the meeting this week, I am unable to attend. Instead, Grady Gammage will be there. I have included Grady on this email.

Many thanks and looking forward to future discussion.

Please let me know if you have any questions.

Sincerely,

Cheryl L. Lombard
President & CEO
Valley Partnership

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What the Council Should Focus On

Many proposals submitted to the Governor’s Water Policy Council are not focused on solutions to the problems facing the Assured Water Supply (“AWS”) program. Instead, they would just expand which types of developments face those problems. While modifying the AWS program’s scope may be beneficial, the Council should remain focused on solutions. The Council can permit responsible development, while also strengthening groundwater regulations.

Proposals to Solve the Problems

Under AWS regulations, the unmet demand identified by the recent Phoenix groundwater model shuts off all future development outside of designated providers. While it may be beneficial for the Council to evaluate which developments are subject to AWS regulations or whether the Model accurately quantifies this unmet demand, the key problem is how to facilitate future development while strengthening groundwater regulations. These proposals would do that:

- Addressing Commingling to Allow for Importing Alternative Supplies: Under current regulations, a developer who acquires an alternative water supply cannot obtain an AWS certificate if that water is commingled with groundwater. Those regulations should allow for alternative sources to be deemed physically available, separate from the groundwater.
- Discharging Effluent To Non-Recoverable Storage: Many industrial water uses create effluent. Generally, industrial users do not know what to do with that water, and sewer operators do not want to accept it and take on the treatment obligations—although some do and accrue storage credits for doing so. Regulations requiring certain types of effluent to be discharged to non-recoverable storage could be a novel way to replenish aquifers.
- Incentivize the Conversion of Agricultural Lands: Much of the current groundwater demand is from agriculture. Urbanizing agricultural lands would significantly reduce their groundwater use. Allowing irrigation grandfathered rights (“IGFRs”) to be retired in exchange for AWS allocations, potentially of 1 AF per converted IGFR acre, would incentivize developing agricultural areas while reducing the demand for groundwater.
- Paying Development Fees to WIFA to Address Unmet Demand: Imposing a fee on new development could fund solutions to address wells with unmet demand under the Model. A proportionate fee paid to the Water Infrastructure and Finance Authority (“WIFA”) could fund acquiring alternative water sources and modifying wells with unmet demand.
- Allow Portions of Cities to Obtain AWS Designations: Allowing portions of cities to obtain AWS designations would facilitate development that would fund other solutions. Issuing those designations would require addressing the commingling issue and allowing for some groundwater use. That groundwater is a steppingstone to longer term solutions.

Accurately Understanding the Problem

The Council should ensure that it accurately understands the problems it is trying to solve by considering whether the Model can more accurately reflect future water management conditions. Future development contemplated by the Model should reflect actual phased development timelines, realistic well placements, and effluent generation. The Model should also fully account for future CAGR replenishment and the introduction of alternative supplies. Those changes, and others, would better quantify the magnitude of these problems.