

ARIZONA WATER BANKING AUTHORITY
Final Minutes

January 17, 2019

Arizona Department of Water Resources



Welcome/Opening Remarks

Chair Thomas Buschatzke welcomed the attendees. All members were in attendance. Commission member Mark Clark attended via teleconference. *Ex-officio* members, Speaker of the House of Representatives Russell Bowers and Senate President Karen Fann, were not in attendance.

Approval of Minutes

Chair Buschatzke asked for a motion to approve the minutes from the December 5, 2018 regular quarterly meeting. Vice-Chair Ray Jones moved to approve the minutes. Secretary Kathryn Sorensen seconded the motion and the minutes were unanimously approved.

Background on Lower Colorado Drought Contingency Plan (LBDCP) and Implementation Plan

Prior to discussing potential agreements and actions for the AWBA under the LBDCP Implementation Plan, Chair Buschatzke asked Bret Esslin, ADWR Colorado River Management, to give the latest update on Colorado River hydrology and Virginia O'Connell, AWBA Manager, to give an update on the Lower Basin Drought Contingency Plan (LBDCP).

Colorado River Status Update. Bret Esslin, ADWR Colorado River Management, gave an update on the Colorado River system (presentation available online). As of January 14th, Lake Powell is at 40.5% of capacity at lake elevation 3,578.9 feet, and Lake Mead is at 39.51% of capacity at lake elevation 1,083.51 feet. Unregulated inflow is now at 4.55 million acre-feet (MAF) or 65% of the 30-year average. Based on existing inflow data to date, the most probable release from Lake Powell in 2019 is 8.625 MAF. Mr. Esslin explained that the U.S. Bureau of Reclamation (USBR) ran four hydrology scenarios: one based on the December 24-Month Study, three others called "Wetter than Forecast", "Drier than Forecast" and "Drier than Forecast plus no DCP".

Lake elevations resulting from the four scenarios at the end of 2019 range from elevation 1,077 feet under the "Wetter than Forecast" and elevation 1,055.5 feet under the "Drier than Forecast plus no DCP". The December 24-Month Study scenario projects Lake Mead elevations at 1,068.1 feet for year-end December 2019.

Chair Buschatzke asked how much more water would be needed to avoid a shortage in 2020. Mr. Esslin responded saying to get the "Wetter than Forecast" results, unregulated inflows would need to be 79% of average, 13% more than the December

AUTHORITY MEMBERS

Thomas Buschatzke, Chair
Ray L. Jones, Vice-Chair
Kathryn Sorensen, Secretary
Mark Clark
Pamela Pickard

EX OFFICIO MEMBERS

The Honorable Karen Fann
The Honorable Russell Bowers

forecast. Chair Buschatzke added that California's current order includes 400,000 (acre-feet) AF of intentionally created surplus (ICS). If Arizona completes its DCP, California will amend its order leaving its ICS in the lake. If not, California's order will remain, and the Lake will drop another 5 feet in elevation. Chair Buschatzke indicated the deadline for changing orders is around May 1.

Chair Buschatzke asked for questions and/or comments from the Commission and public. There were none.

LBDCP Update. Ms. O'Connell informed the Commission that CAWCD had approved two action items at the December 6, 2018 Board meeting including 1) support for key provisions of Arizona's implementation plan for the LBDCP recognizing the need for additional discussion on remaining issues and 2) the LBDCP agreement and companion agreement. She also noted that USBR Commissioner Brenda Burman had announced a January 31st deadline for parties to the DCP in the Lower Basin to finish the work necessary to complete the DCP. If the deadline was not met, USBR would publish a notice in the Federal Register asking all seven basin States to provide, within 30 days of the notice, their recommendations for future action to address the risks the Basin is facing. Lastly, Ms. O'Connell stated that an Arizona LBDCP Steering Committee meeting was held on January 8th where discussions included outstanding issues and agreements, as well as actions and legislation necessary to effectuate Arizona's implementation plan. She also provided a brief overview of the key terms of the mitigation and offset components that structure the implementation plan. Chair Buschatzke added that if a Tier 2 shortage were to occur in the third year resulting in the Ag Pool dropping from 105,000 to 70,000 AF, it would be an unacceptable outcome to CAP agriculture. He noted that the City of Tucson agreed to back stop the reduction by storing 35,000 AF of Tucson's CAP water in the Pinal AMA as part of the USF to GSF credit exchange proposal. He lauded their efforts.

Chair Buschatzke asked for questions and/or comments from the Commission and public. There were none.

Discussion on Potential AWBA agreements and actions contemplated under the Arizona Implementation Plan

Ms. O'Connell briefed Commission members on potential AWBA agreements and actions that would be necessary for implementing DCP in Arizona (presentation available on-line).

Agreements. Three agreements are anticipated:

1. Long-term storage credit exchange agreement for AG mitigation purposes (USF to GSF) – Ms. O'Connell explained that these agreements provide for in lieu storage at GSFs in the Pinal AMA by Phoenix and Tucson AMA CAP M&I subcontractors in exchange for an equal volume of existing AWBA credits in the corresponding subcontractors' AMA. The proposed exchange includes up to 33,500 acre-feet per year (AF/YR) of AWBA credits in

the Phoenix AMA for mitigation from 2020 through 2022 and an additional 35,000 AF/YR of AWBA credits in the Tucson AMA should a Tier 2a shortage occur in 2021 and/or 2022. The AWBA has withdrawal fee and shortage reparation credits available for this purpose. Recovery partnerships will be needed for the credits the AWBA receives in the Pinal AMA.

Chair Buschatzke added that a reason for the USF to GSF proposal is that it gives the M&I subcontractors the ability to pump the credits in their own AMAs. He asked if Ms. O'Connell had analyzed the volume of credits that would be exchanged and determined if the ABWA could still meet its obligations. She responded saying the shortage reparation credits can be used for any type of AWBA firming. Most of these credits are in the Pinal AMA with smaller amounts available in the Phoenix and Tucson AMAs. Exchanging these credits would result in more credits in Pinal, which could affect the AWBA's flexibility in utilizing those credits. Regarding withdrawal fee credits, there are about 50,000 AF of credits that can be exchanged with little impact. Additional credits will begin to affect the AWBA's ability to meet its Indian settlement obligations, strengthening the need for recovery partners. The potential inclusion of the 50,000 AF of ICS created by the Gila River Indian Community (Community) would help mitigate diminished flexibility since some of the withdrawal fee credits would have been used to meet the AWBA's firming obligation to the Community. Chair Buschatzke asked Ms. O'Connell to make any internal reports on this matter available to the Commission. He also noted that shortage reparation credits can be used for on-River firming and that historically those parties have requested some of those credits be reserved for that purpose. To date, the AWBA has not reserved credits.

2. Recovery Agreements – Ms. O'Connell explained the credit exchanges could result in up to 170,500 AF of AWBA credits relocated to the Pinal AMA. When needed, it would require recovery capacity sufficient to meet AWBA annual firming needs. Recovery partnerships may also require exchange agreements with higher priority water users who would agree to accept recovered water in place of a normal CAP delivery. Vice-Chair Jones asked if the program would increase the recovery costs associated with meeting the AWBA's obligations. Ms. O'Connell indicated that recovery costs were not known at this time. There are fewer opportunities for recovery in the Pinal AMA such as annual storage and recovery, which might reduce costs. Secretary Sorensen noted that the costs to meet the AWBA obligations are not yet known, and that it is being worked on in the Recovery Planning Advisory Group. Chair Buschatzke indicated that assigning credits directly to a firming party is something that has been discussed but is not part of the DCP package.

3. ICS Agreement with the Gila River Indian Community – Under this agreement, the AWBA agrees to pay for 50,000 AF of ICS created by the Community to meet the AWBA's obligation to the Community under the Arizona Water Settlements Act (AWSA). This pre-firming concept is similar to the water

delivery cost reimbursement method the AWBA has used the last several years. The ICS firming credits accrued by the AWBA (45,000 AF including a 10% reduction for losses) would be held in a "Firming Account" and debited after 2026 to meet obligations. The Community would agree to accept the ICS firming credits as water delivered for meeting the AWBA's firming obligation. The AWBA's existing firming IGA with the Community would need to be amended to include this concept as an agreed upon firming method. The payments for ICS would be made annually as part of the AWBA's Plan of Operation using withdrawal fees. The price is expected to \$210/AF in 2019 with a 3% annual escalator. Secretary Sorensen asked if the language in the AWSA is flexible enough to allow for this type of firming. Ms. O'Connell responded that staff is looking into it. Chair Buschatzke added that post 2026, the rules for taking ICS during shortage are unclear so it is important the Community accepts the payment for the creation of the credits as meeting the obligation.

Unrelated to the other agreements, Ms. O'Connell mentioned there will likely be an over-arching agreement signed by certain parties including the AWBA. Vice-Chair Jones asked how the signing of these agreements relate to the January 31st deadline set out by the Commissioner Burman. Chair Buschatzke responded indicating there are roughly a dozen agreements. It is not likely they would all be signed by January 31st. Stakeholders need some certainty before supporting a resolution in the Legislature. He suggested that possibly a term sheet would be acceptable. It remains to be seen what level of certainty is needed. He noted that the purpose of today's meeting is to seek direction from the Commission on continuing to pursue the AWBA agreements discussed and bringing them back for action.

Policy for CAP M&I Firming through 2026. Ms. O'Connell clarified that under the Arizona Implementation Plan for DCP, the AWBA would need to adopt a policy to fully firm CAP M&I subcontracts through 2026. Experience with potential shortages during this period would provide insight for developing a long-term firming policy for post-2026. Based on an analysis conducted on various scenarios, the AWBA's firming exposure could be between 93,000 and 285,000 AF which would be less than a 20% reduction in supply. Under a scenario for poor hydrology with full use of subcontract entitlements, approximately 1.9 million acre-feet of water storage tax credits would remain after 2026. Secretary Sorensen asked what the difference is between 2019 orders and full entitlement. Ms. O'Connell explained that 2019 orders are actual and do not include full entitlement use, whereas the scenario for full entitlement assumes all subcontracts order 100% of their entitlement except the Arizona State Land Department that remains partially used.

Chair Buschatzke added that this policy is needed to create the delicate balance between high priority users and mitigating low priority users. While he agreed this policy makes sense through 2026, he cautioned that more thought needs to be given to how much M&I firming can and should be done over the long-term. He added that there is leeway with M&I firming, but not with Indian firming. Secretary Sorensen supported

moving forward with the policy and received clarification that the policy would not be limited to 20% and that the highest priority orders need to be filled first. Ms. O'Connell affirmed that firming could possibly exceed 20% and that the potential exposure was based only on the scenarios analyzed.

Potential Legislation. Ms. O'Connell described three legislative changes applicable to the AWBA including allowing the exchange of withdrawal fee LTSCs through 2026, waiving credit transfer fees associated with those exchanges and changing the use of the Pinal AMA withdrawal fee revenues for LBDCP purposes.

Chair Buschatzke indicated that ADWR was permitted to draft the legislation, of which there are six pieces, some that do not involve the AWBA. These were sent to Legislative Council, the Speaker of the House and the Senate President, who were also briefed. CAWCD also received the packet, and ADWR was given authority by legislative leadership to distribute it to members of the LBDCP Steering Committee. He added that the legislation could be appended much like an omnibus bill, but no decisions have been made to that point. One additional piece of legislation is pertinent to the AWBA and concerns the backstop provided by Tucson Water through the Pinal GSF credit exchange with the AWBA. One of the elements of that backstop plan includes legislation regarding ADWR's managed recharge program as it pertains to effluent. Credit accrual would increase from 50% to 95% and such credits could be pledged for assured water supply purposes. He indicated that such a change would also be retroactive.

Secretary Sorensen asked what the Pinal AMA withdrawal fees would be used for upon repurposing. Chair Buschatzke indicated the monies would be repurposed for Pinal AMA wells and nothing else. He added, however, that three existing programs currently funded by withdrawal fees would continue to be funded. He also indicated the fee would not increase. Secretary Sorensen asked if something similar could be done in the Phoenix AMA. Chair Buschatzke suggested this could be addressed in the Recovery Planning Advisory Group.

Chair Buschatzke asked for questions and/or comments from the Commission and public. There were none.

Call to the Public

Chair Buschatzke announced there may be a need for another public meeting before the next regular AWBA meeting. He then asked for public comment. There were no comments. The meeting adjourned at 11:16 a.m.