

ARIZONA WATER BANKING AUTHORITY

Draft Meeting Summary

June 28, 2023

Arizona Department of Water Resources
(Hybrid Meeting)



AUTHORITY MEMBERS
Thomas Buschatzke, Chair
Mark Clark, Vice-Chair
Eric Braun, Secretary
Mark Taylor
Joseph Olsen

EX OFFICIO MEMBERS
The Honorable Sine Kerr
The Honorable Austin Smith

I. Welcome

Chair Tom Buschatzke and Commission members Joseph Olsen and Representative Austin Smith attended in person. Commission members Mark Clark, Mark Taylor, Eric Braun and Senator Sine Kerr attended via video conference.

The meeting was called to order at 10:00 a.m.

Chair Buschatzke introduced Jeff Heilman, the new secondary AWBA attorney.

II. Approval of Meeting Minutes

Chair Buschatzke asked for a motion. Commissioner Olsen moved to approve the March 22, 2023 AWBA Regular Meeting minutes with any needed corrections. Commissioner Clark provided the second to the motion. Chair Buschatzke asked for a discussion. There was no discussion. The minutes were unanimously approved.

III. Water Banking staff activities

Quarterly report on AWBA credit purchases for calendar year 2023. Rebecca Bernat reported on the purchase of 7,470 acre-feet (7,468.20 acre-feet in the Phoenix Active Management Area (AMA) and 1.8 acre-feet in the Pinal AMA) of Intentionally Created Surplus (ICS) firming credits, under the AWBA's agreement with the Gila River Indian Community (Community). The transaction cost \$2,231,040 and was made using Phoenix and Pinal AMA withdrawal fee funds. (The Pinal AMA withdrawal fees were from revenues due before 2020, prior to statutory amendments limiting the AWBA's use of this fund.)

Chair Buschatzke asked Commission members if there were any questions. There were none.

Status report on Colorado River conditions. Kristen Johnson, manager of ADWR's Colorado River Management Section, gave the Colorado River Basin update. She reported that, as of June 19, 2023, Lake Powell was at an elevation of 3,578.08 feet (ft) with storage of 9.14 million acre-feet (MAF) or 39 percent of capacity. Lake Mead was at elevation 1,055.44 ft with storage of 8.08 MAF or 31 percent of capacity.

Ms. Johnson reported on the historic and forecasted water year 2023 unregulated inflow into Lake Powell. As of June 6, this year's minimum probable forecast is 12.80 MAF (133 percent of the 30-year average). The most probable forecast is 13.85 MAF (144 percent of average) and the maximum probable forecast is 15.31 MAF (159 percent of average).

The Lake Powell 24-Month Study (24-MS) plots indicate the most probable elevation at the end of calendar year 2024 is 3,575 ft. The 24-MS plots for Lake Mead project a most probable elevation of 1067.05 ft, which would put the Lower Basin in a Tier 1 operating shortage condition in 2024. For 2025, the plots project a Tier 1 shortage condition as the most probable operating condition.

Ms. Johnson then summarized the latest policy discussions. At the end of May, the Lower Basin states developed a consensus proposal with all seven basin states submitting that proposal to the Bureau of Reclamation (Reclamation). As a result, Reclamation withdrew its initial draft Supplemental Environmental Impact Statement (SEIS) and will now model this consensus proposal, which includes at least 3 MAF of additional conservation from the Lower Basin during the interim period. This additional conservation is in addition to contributions and reductions required by the 2007 Interim Guidelines and the Drought Contingency Plan (DCP). At least half of the 3 MAF in reductions will be achieved by the end of calendar year 2024.

Ms. Johnson also gave an overview of the current activities surrounding the post-2026 guidelines. New operating criteria will need to be developed, and any supporting legislation and agreements will need to be effective by January 1, 2027. On June 16th, Reclamation issued its Notice of Intent to prepare an Environmental Impact Statement (EIS) for post-2026 operational guidelines, with a 60-day scoping comment period which closes on August 15th. Reclamation is anticipating a six-month alternative development phase with a draft anticipated in 2024.

Chair Buschatzke asked Commission members if there were any questions.

Commissioner Braun asked whether Reclamation incorporated voluntary contributions in its modeling. Ms. Johnson clarified that Reclamation does not include conservation water in the model until it is in an executed and enforceable agreement.

Commissioner Clark asked if the 400,000 acre-feet that was held back was included in the analyses and when that water will be released to Lake Mead. Chair Buschatzke answered that the water is part of the 9.1 MAF release from Lake Powell to Lake Mead.

Chair Buschatzke added that Reclamation is including a NEPA impact analysis in its modeling of the Lower Basin proposal. The Lower Basin states' modeling of their proposal shows strong protection of Lake Mead. He also mentioned that negotiations are ongoing with Mexico. Mexico would like to do more in terms of reductions and contributions than was required under Minute 323.

Report from the Central Arizona Water Conservation District. Mr. Marcus Shapiro, CAWCD Water Systems Supervisor, started his report with a reminder that we are operating under a Tier 2a shortage condition in 2023 which cut through most of the NIA priority supplies. DCP mitigation agreements have mitigated 75 percent of that cut. For 2024, CAP is planning for a Tier 1 shortage which will be confirmed once the results from the August 24-Month Study are available. A Tier 1 shortage will cut into the non-Indian agriculture (NIA) pool, which will once again be mitigated by 75 percent under the DCP mitigation agreements in 2024. He explained that that will leave some Tribal firming obligations for the AWBA. To date, CAWCD has received schedule changes that reflect some of the agreed-upon conservation. CAWCD anticipates that there will be additional conservation in 2024 under Reclamation's programs and potentially under other programs, which

will ultimately mean that the deliveries in 2024 are anticipated to be similar to the deliveries of this year.

Chair Buschatzke asked Mr. Shapiro if CAWCD has any upcoming stakeholder customer meetings planned. Mr. Shapiro replied that the annual water users meeting will be held in August.

Chair Buschatzke also pointed out that under the Drought Contingency Mitigation Plan, mitigation water was owed to different parties in Arizona. This would have been accomplished by taking ICS in CAWCD's account out of Lake Mead. Because this would have been counterproductive, ADWR and CAWCD were able to offer funding to preserve approximately 41,000 acre-feet of ICS, which is part of the 3 MAF in the Lower Basin State proposal. Chair Buschatzke thanked the parties who took funding instead of water. This demonstrated the collaborative effort in Arizona to do as much as possible to prop up Lake Mead and protect the Colorado River system.

Chair Buschatzke asked Commission members if there were other questions. There were none.

Report on Recovery Planning Activities. Dr. Bernat began with a review of the projected Tier 1 shortage in 2024 and the fact that no CAP municipal and industrial (M&I) firming would occur in 2024. Because of this, the AWBA and subcontractors do not need to finalize their firming proposals in 2024. She then summarized the stakeholder meetings held on April 11th and May 2nd to discuss the distribution of AWBA long-term storage credits (LTSCs) for firming CAP M&I priority subcontract supplies. Attendance at the meetings was described, as well as the alternatives proposed by the AWBA and the stakeholders, and the resulting discussions. She reviewed the comments and feedback received for each alternative, including the number of stakeholders who shared each comment.

Chair Buschatzke asked Commission members if there were any questions or comments.

Commissioners Olsen, Taylor and Braun expressed their desire not to lose the momentum of the stakeholder process in determining the AWBA's firming policy. Commissioner Olsen said that municipal providers want to get some certainty of whatever the AWBA's policy will ultimately be. He wants to take the opportunity of all of this feedback and not wait until Arizona is facing another Tier 2a or Tier 3 shortage many years down the road without discussing what the appropriate policy is for the AWBA. While there is no emergency, he noted, there is an opportunity for planning. Commissioner Olsen added that great proposals were discussed during stakeholder meetings, but that the devil is in the details. Commissioner Taylor agreed with what Commissioner Olsen said, and asked if there was any reason not to finalize a policy at this time, such as affecting negotiations or the SEIS process.

Commissioner Braun agreed with both Commissioner Olsen and Commissioner Taylor. He shared his belief that AMWUA's comments should be weighted more than other stakeholders' comments since they represent 10 subcontractors. He also asked for a characterization of the discussion on May 2nd about the proposals that came from stakeholders. Dr. Bernat replied that the proposals presented were not heavily discussed and that several people asked to know about the next step of the stakeholder process. Commissioner Braun also asked whether firming policies could be specific to each AMA. AWBA Counsel Ayesha Vohra explained that it might be a question appropriate for an executive session and Chair Buschatzke added that he would want to comment on that before considering an executive session.

Chair Buschatzke shared his views on why the policy should not be finalized at this time. The first reason he provided is that while providers are seeking certainty, any certainty is illusory given the unknowns of the post-2026 operating criteria, and any policy would have to be readdressed post-2026. He also shared his concerns about the definition of beneficial use potentially changing to exclude outdoor landscape watering, as well as how the optics of Arizona having firming water available may hurt the state's negotiating position. Finally, he explained that the Assured Water Supply designations in the Phoenix AMA might have to be reevaluated if the AWBA's firming policy were to be finalized.

Considering Chair Buschatzke's remarks, Commissioners Olsen and Taylor requested that the process be archived and memorialized so that when it is started up again, this work is not lost. Commissioner Braun added that some work could be carried out while post-2026 discussions are taking place, such as better understanding the concerns about the value of LTSCs over the long-term, the difficulties of ACC-regulated systems with the incentive-based alternative firming methods, and what CAGR would find achievable. He requested that staff meet with commenters about these issues to work through them in the interim period. The Commission agreed with these directions for staff.

Commissioner Clark asked what the level of participation was from on-River water users. Dr. Bernat replied that some were in attendance but no comments were received from mainstream users. Chair Buschatzke requested that Commissioner Clark assist in engaging on-River users in this process moving forward.

IV. Discussion and Consideration of Action on Source of Funds for Fiscal Year 2024 Legislative Authorized Budget Transfers from the Arizona Water Banking Fund

Dr. Bernat informed Commission members that the Arizona Legislature continued to authorize the use of \$200,000 in funds from the Arizona Water Banking Fund for Fiscal Year (FY) 2024 to support the Arizona Navigable Stream Adjudication Commission (ANSAC). She reminded the Commission that withdrawal fees levied in the Pinal AMA through 2026 are not available to the AWBA. She also noted that, as in FY 2023, the state budget for FY 2024 does not include the transfer of Water Banking Funds to ADWR. Staff recommended that the funds for the ANSAC transfer be taken proportionally from the Phoenix and Tucson AMA withdrawal fee subaccounts.

Chair Buschatzke asked for a motion to approve the source of funds for FY 2024 Legislative authorized budget transfers from the Arizona Water Banking Fund. Commissioner Olsen moved to approve the transfer of \$168,000 from the Phoenix AMA withdrawal fee subaccount and \$32,000 from the Tucson AMA withdrawal fee subaccount in the Arizona Water Banking Fund for Fiscal Year 2024 to support ANSAC. Commissioner Braun provided a second to the motion. The motion passed unanimously.

Chair Buschatzke asked Commission members if there were any questions. There were none.

V. Discussion and Consideration of Action to Approve the AWBA 2022 Annual Report

2022 AWBA Annual Report. Dr. Bernat began her report with a review of the statutory requirements for the Annual Report, and she described the public comment process the 2022

Annual Report and Ten-Year Plan has undergone. She continued her report with the fact that in 2022, the AWBA had its first-ever obligation to firm the Gila River Indian Community for which the AWBA extinguished 6,429 acre-feet of firming credits. The AWBA also purchased 13,273 LTSCs in 2022. She explained that this is about half of what was anticipated purchasing in the 2022 Plan of Operation because there were few purchase opportunities. The AWBA also developed 2,540 acre-feet of ICS firming credits. She added that there were no water storage deliveries in 2022. Approximately half of the water storage tax money available was used to purchase LTSCs. All withdrawal fees available in 2023 were used to purchase ICS with monies from the Phoenix AMA and the Pinal AMA subaccounts. (The Pinal AMA withdrawal fees were from revenues due before 2020, prior to statutory amendments limiting the AWBA's use of this fund.) In 2022, a total of \$4.7 million was spent to develop credits.

Dr. Bernat reviewed other activities that occurred in 2022, including the approval by the AWBA Commission of standard template agreements for firming CAP M&I subcontractors and meetings held between staff and CAP M&I subcontractors to discuss firming method options. She closed her report on the Annual Report with a summary of the amount of credits available at the end of 2022 as well as estimated credit usage in 2023 and the estimated credits remaining.

Ten-Year Plan. Sara Konrad reviewed the Ten-Year Plan component of the Annual Report. She noted that the Ten-Year Plan analyzes potential activity for the 2024-2033 planning period to the extent possible. Because this year's Reclamation data cannot be extended beyond 2027, firming projections and estimates cannot be provided for the full ten-year planning period, as was done in the past. She added that staff was able, however, to provide recovery capacity for CAP M&I subcontractors for the 2024-2033 period. She then disclosed the different assumptions made in this plan. First, the AWBA is not expected to have excess CAP water available under this Ten-Year Plan. Second, the projected shortage reductions are based on the 2007 guidelines and the Drought Contingency Plan, and, therefore, do not address potential additional reductions on the Colorado River. Third, the AWBA will explore alternative resources for firming purposes, but its ability to purchase LTSCs cannot be known in advance. Therefore, the Ten-Year Plan does not assume a certain volume of LTSCs that could potentially be acquired during this period. LTSC purchases will be determined annually under the Plan of Operation. Finally, she noted, because the AWBA does not have to distribute funds to ADWR anymore, it should have withdrawal fee funds available to purchase all remaining ICS firming credits by 2026.

The probabilistic projections for Lake Mead operating conditions were reviewed under Reclamation's scenario (April 2023), which determines the most likely operating tier each year. Tier 1 operating conditions are anticipated in 2024. The likelihood of Tier 1 or normal year operating conditions is equal in 2025 but operations under a Tier 1 in 2025 were selected because the probability of any shortage (57 percent) is greater than the probability of a normal year (43 percent). In 2026 and 2027, a normal operating condition is projected as most likely.

Reclamation's anticipated shortages were used to select the most probable firming volumes. The cumulative firming volumes for the 2024-2027 period would be approximately 19,473 acre-feet for Tribal firming. CAP M&I subcontractors and on-River M&I contractors would not be affected by shortages during this period. Ms. Konrad followed with the estimated recovery capacity needed for CAP M&I subcontractors under each shortage condition.

Ms. Konrad pointed out that through 2027, the AWBA could be distributing 12 percent of its credits reserved for Indian firming to satisfy potential firming obligations to the Community. In addition, based on discussions with the Southern Nevada Water Authority, 5,000 acre-feet could be recovered for interstate purposes.

Chair Buschatzke asked Commission members if there were any questions. There were none. Commission Olsen moved to approve the 2022 Annual Report as submitted (or with minor or technical changes), and direct staff to submit the report to the Governor, Speaker of the House of Representatives, and President of the Senate. Commissioner Braun provided the second to the motion. The motion passed unanimously.

VI. Discussion and Consideration of Action to Adopt the AWBA Administrative Budget for Fiscal Year 2024

Review of FY 2023 Administration budget. Dr. Bernat gave a brief overview of the actual expenditures of FY 2023. Expenses were less than estimated, primarily because of the retirement of the AWBA Director in February and the Water Resources Specialist III who was on staff for seven months of the fiscal year. Other expenditures included travel and conference attendance, as well as the cost of services paid annually to CAWCD in accordance with an Intergovernmental Agreement (IGA).

Discussion and potential adoption of FY 2024 Administration Budget. Dr. Bernat reviewed the proposed administrative budget for FY 2024. The proposed budget includes three staff members, with staffing costs totaling \$682,500. The budget also includes in-state and out-of-state travel costs and operating expenses. Total expenses were estimated at \$720,400.

Chair Buschatzke asked Commission members if there were any questions. There were none. Chair Buschatzke asked for a motion. Commission Olsen moved to adopt the AWBA Administrative Budget for Fiscal Year 2024 as presented (with any minor or technical changes). Commissioner Clark provided the second to the motion. Chair Buschatzke asked for a discussion. There was no discussion. The motion passed unanimously.

VII. Call to the Public

Chair Buschatzke called for public comments.

Simone Kjolsrud, City of Chandler, requested clarification on the next steps for the stakeholder process. Chair Buschatzke clarified that staff would reach out to those stakeholders who had comments to memorialize them in the record for use when additional discussions on the firming policy would occur in the future. Chair Buschatzke also stated that the meeting minutes would be available for reference.

The meeting adjourned at 11:46 a.m.

Future Meeting Dates:

Wednesday, September 20, 2023

Wednesday, December 6, 2023