

ARIZONA WATER BANKING AUTHORITY

Draft Meeting Summary

June 17, 2024

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 member Mark Clark attended in person. Commission members Mark Taylor and Eric Braun attended via online virtual conference. Commission Member Joseph Olsen was not in attendance. *Ex-officio* members Senator Sine Kerr and Representative Austin Smith were not in attendance.

The meeting was called to order at 10:01 a.m.

II. Approval of Meeting Minutes

Chair Buschatzke asked for a motion. Commissioner Clark moved to approve the March 20, 2024, AWBA Regular Meeting minutes as presented. Commissioner Braun provided the second to the motion. Chair Buschatzke asked for a discussion. There was no discussion. The minutes were approved unanimously.

III. Water Banking staff activities

Quarterly report on AWBA credit purchases for calendar year 2024. Rebecca Bernat reported on the purchase of 3,707 acre-feet (AF) of Intentionally Created Surplus (ICS) firming credits, under the AWBA's agreement with the Gila River Indian Community (Community), resulting in the development of 3,336.3 AF of credits. The transaction cost \$1,023,132 and was made using Phoenix withdrawal fee funds. Purchases made in the first quarter were also noted.

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

Status report on Colorado River conditions. Kristen Johnson, Colorado River Program Manager at ADWR, gave the Colorado River Basin update and policy updates. She reported that as of June 9th, 2024, CRSP units in the Upper Basin are all well above 50%. Lake Powell is at 38% with 8.863 million acre-feet (MAF) in storage. Lake Mead is at 34% with 8.867 MAF. Total system storage is 43%, compared to 41% at this time last year. This was attributed to a relatively good snowpack, although the observed snow-water equivalent and runoff is around median for the last 20 years and less than 2023. High volumes last year helped to avoid a crash in the system.

Ms. Johnson reported on the historic and forecasted unregulated inflow into Lake Powell for

water year 2024. As of May 3, the most probable forecast was 7.79 MAF, or 81% of average. This is less than the April forecast of 8.39 MAF, when there was still quite a bit of snow yet to melt.

Ms. Johnson noted that the Bureau of Reclamation (Reclamation) released their June 24-month study the morning of the meeting, so printed materials for the next two slides would be slightly different to the presentation. In Lake Powell, the end of calendar year (EOCY) 2024 most probable projected elevation is 3,570.96 ft, and the EOY 2025 most probable projected elevation is 3,578.01 ft. In Lake Mead, the EOY 2024 most probable projected elevation is 1,061.21 ft, for EOY 2025 it is 1,059.43 ft. Projecting into EOY 2025 there is a very probable Tier 1 shortage condition. Projections into 2026, if looking at the probable minimum, show a potential for Tier 2a shortage.

Ms. Johnson then provided policy updates and major items that have happened since the Commission last met. On May 9th, Reclamation signed the Record of Decision (ROD) to implement the Lower Basin plan to conserve 3 MAF through 2026 and keep Lake Mead from reaching 1000 ft elevation. This plan was created in response to unsatisfactory action alternatives proposed in the initial draft Supplementary Environmental Impact Statement (SEIS). Under this ROD, releases from Lake Powell could be adjusted down to 6 MAF if elevations in that lake fall below 3,500 ft. Current 24-month studies do not show that possibility. May 2024 updates from Reclamation of volumes counted towards that 3 MAF conservation goal show 2.2 MAF accounted for in the model. These volumes do not include Imperial Irrigation District contributions for 2024, so the total volume is likely very close to the 3 MAF goal.

Discussions have been ongoing between Reclamation and the Lower Basin, and across the Basin, since the Lower Basin submitted its alternative on March 6th. This alternative did not provide details for reaching additional reductions beyond 1.5 MAF across the basin, and there was no agreement on how to allocate reductions between states in the Lower Basin. At the Lower Basin request, Reclamation has agreed to model these reductions in two primary ways: pro-rata to all users across the basin, and by interpretation of the priority system. This alternative did not determine allocation of the remaining 2.4 MAF delta of reductions, and the Lower Basin requested Reclamation model this in two ways as well, with the entire 2.4 MAF going to the Upper Basin, and with the Lower Basin taking an additional 1.5 MAF of reductions, leaving the remaining 1.2 MAF allocated to the Upper Basin.

Throughout this process, Reclamation has convened the 38 Sovereign Group, which includes the 30 basin tribes, the seven states, and the federal government, on a regular basis. Ms. Johnson presented multiple quotes from an announcement by Reclamation on May 9th. Reclamation will model the Lower Basin alternative in the two ways requested, but also in several additional ways with the intent to distribute according to pro rata but without reductions to the five Lower Basin mainstem tribes that hold Present Perfected Rights. They will also include Lower Basin shortage distribution that protects all tribal water. They will look at developing demand projections that reflect full development of tribal water entitlements by approximately 2024, and at opportunities for Lake Mead and/or Lake Powell storage delivery mechanisms to incorporate tribal priorities. Reclamation has been hearing from tribes, especially in the Lower basin, about the importance of protecting their interests, and these are some of the ways in which they intend to do so.

Following this announcement from Reclamation, several tribes collaborated on a response.

Some high points of this letter were that Reclamation should empower tribes to know how and when to use their water rights by adopting and supporting a portfolio of flexible tools, and should provide for a formalized structure for tribal participation in the post-2026 guidelines. These tribes (20 of the 30 Basin tribes) also provided more detail in their thoughts for implementation, calling for rejection of any alternative that would impose involuntary or uncompensated out-of-priority cuts; for Central Arizona Project (CAP) tribes to be made whole; to identify any potential adverse impacts and to be fully analyzed in the NEPA document; and to clarify legal authority and address accounting issues that may exist for tribes in the Lower Basin. Ms. Johnson noted that she has not been a participant in these meetings herself.

Chair Buschatzke asked if there were any questions from Commission members.

Commissioner Taylor asked for further explanation on Reclamation's intention for storage mechanisms in Lakes Powell and Mead to incorporate tribal priorities. Ms. Johnson noted that these statements were taken directly from Reclamation slides, and that all parties are looking for more clarification on what that might mean. She followed with the thought that this refers to expanded storage accounts for tribal entities, noting that there is more discussion and negotiation to be done for what storage accounts look like for tribes and water users across the basin.

Commissioner Taylor then asked if Arizona would get to see modelling results before the draft NEPA EIS is published. Ms. Johnson responded that the Lower Basin technical group continues to work with Reclamation and has been told some results will be shared with them to ensure consistency, but that a full preview is unlikely due to the rules and regulations surrounding NEPA preparation and stakeholder involvement prior to document publication.

Commissioner Taylor followed with the question if the Arizona Reconsultation Committee (ARC) Modeling and Analysis Work Group (MAWG) will try to replicate some of the models. Ms. Johnson responded that there have been two MAWG meetings since the March ARC meeting, to share in depth some of the results and visualizations the technical staff of ADWR and CAP were able to put together. At this time there is not further direction from ARC regarding a next MAWG meeting. She then commented that the online Reclamation tool for post-2026 alternatives does not incorporate up-to-date changes in rules and reprogramming of the model and as such does not accurately reflect the conditions and rules that the technical staff are working to.

Chair Buschatzke asked if there were any further questions. There were none.

Report from the Central Arizona Water Conservation District (CAWCD). Mr. Marcus Shapiro, Water Systems Supervisor at CAP, gave a brief look ahead to 2025. As was stated in the Colorado River update presentation, the June 24-month projections from Reclamation indicate that 2025 will also be in a Tier 1 shortage, although this won't be known for certain until the August 24-month study is released. Once those results are available, CAWCD will wait on processing the water orders that come in on October 1st to determine what water supply and demands look like on the CAP system for 2025. Currently, forecasts show volumes similar to this year in terms of deliveries—roughly a forecast of 875,000 AF available for deliveries. There is no

excess water available due to the Tier 1 shortage. AWBA firming obligations for the Community look to be similar in 2025 to the current year, about 10,000 AF.

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

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 presented to Commission members the authorization by legislature in Senate Bill 1740 for the use of \$200,000 from the Arizona Water Banking Fund for Fiscal Year (FY) 2025 to support the Arizona Navigable Stream Adjudication Commission (ANSAC). She recommended, based on previous actions by the AWBA Commission, that the funds needed for the transfer be taken proportionally from the Phoenix and Tucson AWA withdrawal fee subaccounts. The suggestion was for a withdrawal of \$168,000 from the Phoenix withdrawal fee account and \$32,000 from the Tucson AWA withdrawal fee account for FY 2025.

Chair Buschatzke asked if there were any questions from the Commission.

Commissioner Taylor asked how much is in the two accounts before this transfer. Dr. Bernat said that she does not have the numbers immediately available, especially as the AWBA is currently still collecting withdrawal fee money, but that the annual report contains an estimate of how much the AWBA will have for the entire calendar year. Commissioner Taylor noted that the presentation showed an estimated annual revenue of just over 2 million, so this transfer takes about 10% of that total. Dr. Bernat confirmed this, and added that current numbers of the fund can be determined and shared after the meeting. Commissioner Taylor asked if there is a limit to how much the legislature can take from these withdrawal fees and how typical it is. Dr. Bernat responded that while she does not know the limit, the legislature has in the past authorized a transfer of about 2 million dollars to ADWR from Water Banking funds. As in fiscal years 2023 and 2024, the state budget for the upcoming fiscal year does not include such a use of Water Banking funds, it only includes the ANSAC reappropriation.

Chair Buschatzke asked if there were any further questions. There were none. The Chair entertained a motion.

Commissioner Clark moved to approve the item as presented. Commissioner Braun provided the second. Chair Buschatzke asked for further discussion, and there was none. The motion was passed unanimously.

V. Discussion and Consideration of Action to Approve the AWBA 2023 Annual Report

2023 AWBA Annual Report. Dr. Bernat introduced the annual requirement of a report to be submitted to the Governor, Speaker of the House, and the President of the Senate, by July 1st. A draft of this annual report was distributed to the Commission and to the public, and comments were received. Most notable were two comments received from four CAP Municipal & Industrial (M&I) subcontractors. One comment was that the AWBA could have made assumptions in the Ten-Year Plan based on the Lower Basin alternative to show firming and recovery volumes after

2026, and the other was that the triggers in the annual report to initiate recovery consultation with CAP M&I subcontractors are tied to the Bureau of Reclamation's April 5-year probabilistic table and 24-month study, which should be changed in 2027 depending on the adopted post-2026 guidelines. The 2023 Annual Report includes a Ten-Year Plan, and ongoing negotiations and potential reductions in Arizona's apportionment present difficulties in projecting beyond 2026. Despite these difficulties, it is the belief of the AWBA staff that the current annual report meets the statutory requirements of AZ Rev Stat 45-2426. The AWBA intends to adapt to the changing landscape of water resources in the Southwest as these negotiations lead to concrete and quantifiable inter-basin agreements.

In 2023, the AWBA had a firming obligation to the Gila River Indian Community, and extinguished 14,575 AF of firming credits. LTSCs were also purchased, pursuant to statutes, from the Tohono O'odham Nation—1,327 AF in the Tucson AMA. The AWBA also developed 7,470 AF of Intentionally Created Surplus (ICS), which was purchased mostly with funds from the Phoenix AMA. There was a small amount of money left in the Pinal AMA withdrawal fees subaccount from collection before 2020, and this was also used to purchase ICS. There was no delivery in 2023. These LTSC purchases were a lot less than what was anticipated in the 2023 Plan of Operation, which was due to the price increase in the LTSC market. The AWBA was able to purchase more ICS because more funds were collected in the Phoenix AMA than anticipated. The total amount of money spent was \$2,552,966.31.

In addition to purchasing credits, the AWBA also held two stakeholder meetings in the first part of 2023, to discuss distribution of AWBA LTSCs for firming CAP M&I priority subcontract supplies. The AWBA also followed up with subcontractors and others who commented, with individual meetings to understand their concerns. These findings, discussions, and comments were archived for the time being. Also in 2023, the AWBA collaborated with CAWCD, Southern Nevada Water Authority (SNWA), and the Colorado River Commission of Nevada to postpone interstate recovery through 2028.

Ten-Year Plan. Dr. Bernat then moved on to the Ten-Year Plan, which is updated annually. As was mentioned previously, the timeframe of the Plan was shortened in consideration of the ongoing development of new operating guidelines. It shows activities, firming projections and estimates, and recovery capacity for CAP M&I subcontractors for 2025 and 2026. Some assumptions were made in the Ten-Year Plan: there is no expectation to receive CAP excess water; projected shortage reductions are based on the 2007 Guidelines and the Drought Contingency Plan (DCP); LTSC purchases are determined annually through the Plan of Operation; all remaining ICS firming credits are anticipated to be purchased by the end of 2026.

The methodology used for determining firming estimations and recovery capacity is similar to the previous year. Reclamation's 5-year projections are combined with estimates from CAP for M&I subcontractors, tribal firming, and on-river firming. To analyze recovery capacity for different shortage tiers, CAWCD demand estimates for CAP M&I subcontractors were used. Additionally, information collected in 2022 through meeting with CAP M&I subcontractors regarding their water systems and water use, as well as their ability to engage in independent recovery, was utilized. In 2025, a Tier 1 shortage is likely, and again in 2026. Although the

original tables from Reclamation contain projections for after 2026, these are not considered as previously explained.

Under a Tier 1 shortage, the only firming that the AWBA would have to do is for the Gila River Indian Community. CAP estimates show no firming for M&I subcontractors and On-River. Therefore, the total firming that the AWBA would have to do through 2026 is 19,380 AF for the Community. The White Mountain Apache Tribe Water Rights Quantification Agreement will only be enforceable at the end of 2027, and the Hualapai Tribe Water Rights Settlement Act will be enforceable in April of 2029. The recent North-Eastern Arizona Indian Water Rights Settlement Agreement is not mentioned in the report because there is no firming obligation by the State or by the AWBA included in that agreement.

Recovery capacity for M&I is also estimated for 2025 and 2026 under different tiers. There is more detail by AMA under Tier 3 in the report.

An estimation of how many credits the AWBA would have remaining for its various objectives by the end of 2026 was presented, with the anticipation of needing 19,380 credits to firm the Community through 2026. Included under Groundwater Management are the Reciprocal Exchanges, which was a deal made during DCP for an exchange of credits between AMAs with several CAP M&I subcontractors. These exchanges must be requested by 2026, so the AWBA anticipates the exchanges will be made by then. There is no recovery from the SNWA included.

Dr. Bernat concluded with the anticipation for a Tier 1 shortage condition in 2025 and 2026. New operating guidelines are anticipated for 2027 and beyond. During this two-year period, the AWBA is only anticipating tribal firming for 19,380 AF. If that is the case, the AWBA will use 12% of the credits currently on account for the Community. The AWBA expects development of Intentionally Created Unused Apportionment (ICUA) on behalf of Nevada starting in 2028, which will be 2,500 AF developed annually.

Chair Buschatzke asked for questions from the Commission.

Commissioner Braun commented that he has heard from several subcontractors that there is a lack of a ten-year plan for recovery. He conveyed the thought that the recovery capacity ratio to the potential firming needs is an important component of that, and pointed out that Table 13 in the Annual Report shows CAP's maximum recovery capacity by AMA after 2027 to be only about 12,000 AF, which seems likely to be insufficient for CAP subcontractors. Their main takeaway from this plan, then, is that it is a signal that they will have to take care of firming themselves, and that the Bank isn't going to be reliable in that way for them. He was uncertain if the Ten-Year Plan can be modified, or created in a way that would be reliable enough for these subcontractors. He believes there is a duty to at least show there is a ten-year plan for recovery, even if it is using Tier 3 shortage conditions, which is probably what many subcontractors look at as the best-case scenario. This would likely show that there's a greater need for recovery capacity in the AMA, which would then start other processes to follow. Dr. Bernat responded

with a reminder to everyone that the AWBA is unfortunately not authorized to perform recovery, and relies on others to perform recovery, such as CAWCD and subcontractors themselves.

Chair Buschatzke asked if there were any other questions or comments.

Commissioner Taylor said that he noted, while reading through the comments from several of the other municipalities, that an obvious common theme was asking if there was any way to make a range of projections or assumptions for firming requirements for the last eight years of the Plan. He acknowledged that it is uncertain in multiple ways, for what type of firming requirements would be needed, and that there is a dislike for projecting that this is where we are going, but noted that there is enough known where maybe ranges could be established, and what their effects on firming requirements would be.

Chair Buschatzke weighed in that the Colorado River status update presentation by Ms. Johnson was very clear about the uncertainty. While the Lower Basin March 6th proposal had 760,000 AF under the 1.5 MAF Static Reduction potentially attendant to Arizona, it is completely unclear how much of that 760,000 AF would come out of CAP versus out of the State of Arizona. It would be a very difficult process for the AWBA to make assumptions about how much post-2026 reduction there is going to be for Arizona, how much of it is going to come out of CAP, and how much firming might be required or desired of the AWBA for those M&I subcontractors. He believes that it is in the best interest of the AWBA, the AWBA's constituencies, and the State, to delay discussion of what post-2026 might look like, how much firming the AWBA might be able or unable to do post-2026, and what that volume of firming might be in relation to the total reductions that might be attendant to the state of Arizona.

Commissioner Taylor responded that he appreciated the answer and thinks it is important to hear. He understands the sensitivity of this moment, and knows that it is premature to ask when it might be possible to start looking at those arranged projections, but also understands that M&I municipalities need to have a planning tool, even if it is premature to do so at this moment. He said that we will focus, and at earliest opportunity start making those projections and helping in those ways.

Chair Buschatzke responded that there was a question earlier about whether a preview of some of the modelling results will be available. As was stated by Ms. Johnson, he does not know if there will be a preview, so perhaps revisiting this topic in the September AWBA meeting is the next appropriate place to talk about plans for firming obligations and recovery planning. Commissioner Taylor responded that he thought that sounded reasonable.

Chair Buschatzke asked if there were any more comments or questions from the Commissioners. There were none. The Chair entertained a motion. Commissioner Clark provided the motion and Commissioner Taylor seconded. Chair Buschatzke asked if there was any further discussion.

Commissioner Braun asked if there would be a call to the public on this item. Chair Buschatzke asked if there were any members of the public who wanted to speak to the motion. There were

none. Chair Buschatzke asked for any additional discussion by Commissioners. There was none. The motion was passed unanimously.

VI. Discussion and Consideration of Action to Adopt the AWBA Administrative Budget for Fiscal Year 2025

Review of FY 2024 Administrative Budget. Dr. Bernat presented a comparison of expected and actual expenditures for FY 2024. The AWBA spent a little over half of what was estimated for salary spending, employee related expenditures, and indirect costs. This was because of a change from 3.5 full-time employees (FTE) to only two AWBA staff plus attorney support, and with one position unfilled for half of the year. Other costs include services to CAWCD (\$23,000), travel and conference attendance, and operating expenses such as the administrative fee owed to ADWR when purchasing LTSCs.

Chair Buschatzke asked if there were questions from the Commission. There were none.

Discussion and potential adoption of FY 2025 Administrative Budget. Dr. Bernat reviewed the proposed administrative budget for FY 2024. The proposed budget totals \$481,200, with staffing costs planned for \$445,856. CAWCD services costs are again budgeted for \$23,000. Other expenses like travel and operating expenses, including ADWR application/transfer fees, make up the remaining \$12,300. Travel expenses include reimbursement for Commission members, as well as for staff to attend meetings in and outside of the Phoenix area.

Chair Buschatzke asked Commission members if there were any questions. He noted that the Directors of all state agencies have recently been asked by the Governor's office to reduce out-of-state travel. For business purposes, travel will continue, and he does not know if this reduction will impact AWBA employees.

The Chair entertained a motion. Commissioner Clark provided the motion and Commissioner Braun the second. Chair Buschatzke made a call to the public for questions or comments. There were none. Chair Buschatzke asked the Commission for additional discussion, there was none. The motion was passed unanimously.

VII. Report on reciprocal transfers of long-term storage credits pursuant to the Lower Basin Drought Contingency Plan Implementation Plan

Madeleine Oliver provided an update on the exchange of LTSCs under the LBDCP Implementation Plan. As a part of DCP, the AWBA facilitated CAP water deliveries to the Pinal AMA. Parties in the Phoenix and Tucson AMAs agreed to store CAP water and accrue credits in the Pinal AMA in 2022 under a Tier 1 shortage condition, with the AWBA agreeing to later exchange these credits for an equal volume in the Parties' own AMA. To date, four entities have requested exchanges, three of which were presented in the last Commission Meeting. In the second quarter, the City of Peoria requested an exchange of 4,717.22 AF. This amount was credited to the AWBA at Maricopa-Stanfield Irrigation and Drainage District GSF in the Pinal AMA, in exchange for credits at the Agua Fria Constructed USF in the Phoenix AMA.

Chair Buschatzke asked for questions from the Commission. There were none.

VIII. Consideration of action to go into Executive Session of the Commission

Chair Buschatzke entertained a motion to go into executive session of the Commission for the purpose of the Commission giving direction to staff regarding contract negotiations regarding potential LTSC purchase(s).

Executive session is not open to the public.

Commissioner Clark moved to enter executive session. Commissioner Taylor seconded. The motion was passed.

Executive session started at 11:10 a.m.

The regular session reconvened at 11:39 a.m.

There was no action to be taken from executive session.

IX. Call to the Public

Chair Buschatzke called for public comments not already called upon. There were no comments.

Future Meeting Dates:

Wednesday, September 11, 2024

Wednesday, December 11, 2024

The meeting adjourned at 11:40 a.m.