

ARIZONA WATER BANKING AUTHORITY Final Meeting Summary

December 11, 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 members Mark Clark, Joseph Olsen, Mark Taylor and Eric Braun attended in person. *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.

Chair Buschatzke started the welcoming remarks with an overview of hybrid meeting logistics for public attendees online and a request for in-person attendees to introduce themselves. It was noted for the record that Commissioner Clark was not yet present.

II. Approval of Meeting Minutes

Chair Buschatzke asked for a motion. Commissioner Olsen moved to approve the September 11, 2024 AWBA Regular Meeting minutes as presented. Commissioner Taylor provided the second to the motion. Chair Buschatzke asked for a discussion. There was none. The minutes were approved unanimously.

III. Water Banking staff activities

Quarterly report on AWBA credit purchases for calendar year 2024. Rebecca Bernat reported on recent purchases of Long-Term Storage Credits (LTSCs) from the Tohono O'odham Nation in the Tucson and Phoenix AMAs, approved in the September 11, 2024 Commission meeting. In the Tucson AMA, 21,324.39 AF of credits were purchased for \$8,529,756. In the Phoenix AMA, 6,871 AF were purchased for \$3,332,033. Cumulative credit purchases were presented, including this recent purchase and the purchase of Intentionally Created Surplus (ICS) and LTSCs from the Tohono O'odham Nation in January and February, with a total of almost 34,000 AF purchased in 2024.

Chair Buschatzke asked Commission members if there were any questions.

Commissioner Braun asked if there were no purchases in the Pinal AMA because those withdrawal fees were currently being used for other purposes. Dr. Bernat confirmed this, stating that as part of the Drought Contingency Plan (DCP) agreements, withdrawal fees in the Pinal AMA go to the Irrigation Fund until the end of 2026, and so the AWBA is not collecting.

Chair Buschatzke asked if there were any further questions.

Commissioner Taylor commended AWBA staff on the purchase and development of these credits.

There were no further questions or comments.

Status report on Colorado River conditions. Kristen Johnson, Colorado River Programs Manager for ADWR, provided a brief hydrology update, beginning with the standard teacup slide of reservoir levels. She highlighted that Lake Powell, as of December 1st, is at 38% of capacity, or 3,575.15 ft elevation. Lake Mead is at 33% capacity (1,060.93 ft elevation). Total system storage is currently 42%, compared to 43% at this time last year. The water year has only just begun, so conditions will develop through the winter. For now, the current year's Upper Colorado Snow Water Equivalent is near average compared to the medium from 1991-2020. The Bureau of Reclamation (Reclamation) forecast for Unregulated Inflow projects water year 2025 to have a November Probable Minimum of 5.33 million acre-feet (MAF) (56%), a November Most Probable of 8.64 MAF (90%), and a November Probable Maximum of 15.59 MAF (162%). The average from 1991-2020 is 9.60 MAF. However, it is too early to make any solid statements about the current water year.

Ms. Johnson then presented the End-of-Month/24-month study plots for October/November. October presents the Probable Max but for November Reclamation only ran the Minimum and Most Probable. Lake Powell is projected to end 2024 at 3,572.34 ft elevation, with an end of calendar year (EOCY) 2025 Most Probable projection of 3,575.9 ft elevation. Probabilities narrow for Lake Mead because of Lake Powell releases. The projections for EO CY 2025 show all major traces, bar a few outliers, to be squarely in a Tier 1 shortage condition moving into 2026 (Min, Most, and Max Probable projections). It is already projected that operations will be in Tier 1 shortage for 2025. The Probable Min has been moved up significantly because of conservation efforts in the Lower Basin as part of the near-term Supplemental Environmental Impact Statement (SEIS), and a couple of decent water years. Two years ago, the Probable Min was in Tier 2b, with some traces going into a Tier 3 shortage.

Chair Buschatzke asked if Ms. Johnson knew the volume of conserved water under the SEIS plan that was inherent in the projected Lake Mead End-of-Month elevations. Ms. Johnson replied that the Reclamation total across the Lower Basin states in this modelling is approximately 3.4 MAF. Chair Buschatzke noted that the Lower Basin SEIS goal was 3 MAF, so it has been exceeded by a substantial volume, and asked if Ms. Johnson knew approximately how many feet 3.4 MAF was. A short discussion followed, with an estimate of tens of feet to 3.4 MAF as it is approximately 76,000 AF to a foot.

Chair Buschatzke noted that Commissioner Clark had joined the meeting in person, and called for questions from Commissioners. There were none.

Report from the Central Arizona Water Conservation District (CAWCD). Marcus Shapiro, Water Systems Supervisor at Central Arizona Project (CAP) attended virtually and provided a brief verbal update for CAP, highlighting some elements of their 2025 Annual Plan of Operation

(APO). Mr. Shapiro noted that additional details on the CAP 2025 APO would be presented the following day at the Central Arizona Water Conservation District (CAWCD) Board Meeting. Water orders received for 2025 now total 1,240,779 AF. Due to a Tier 1 shortage condition in 2025, there will be cuts to the Non-Indian Agriculture (NIA) priority pool, which will be mitigated under DCP at 75%. The total wet water delivery volume will be 860,536 AF, which is significantly less than the orders. There is a significant volume of conservation planned under Reclamation's Lower Colorado River Basin System Conservation and Efficiency Program, currently about 306,000 AF for 2025.

Of particular importance for the AWBA is that due to cuts into the NIA pool, the AWBA will have a firming obligation for the Gila River Indian Community (Community), which has been calculated as 5,625 AF. This concluded Mr. Shapiro's update, bar any questions.

Chair Buschatzke asked if there was any wet water coming out of Lake Mead towards the 75% mitigation. Mr. Shapiro responded that approximately 37,000 AF of ECICS (Extraordinary Conservation Intentionally Created Surplus) credits will be released from Lake Mead to mitigate the NIA pool at 75%.

There were no further questions.

IV. Discussion and consideration of action to approve AWBA 2025 Plan of Operation

Dr. Bernat gave a review of slides presented during the previous Commission Meeting, when the Preliminary Plan of Operation for 2025 was shown. It was noted that the Tier 1 shortage impact on the NIA pool will result in a firming obligation by the AWBA for the Community in 2025, as Mr. Shapiro had just stated. The volume of 5,625 AF is lower than that which was presented in the Preliminary Plan (6,102 AF).

Commissioner Taylor asked if the NIA water was predelivered. Dr. Bernat clarified that the firming credits supplied to the Community are from excess CAP water that the AWBA stored on the reservation in 2016 and 2017, so the water is already there. The AWBA is firming the Community because the NIA pool is impacted, but is not using NIA water to do so.

Dr. Bernat relayed support given for the Preliminary Plan of Operation when it was presented at the Groundwater Users Advisory Council meetings in the Tucson, Pinal, and Phoenix AMAs. At these meetings the AWBA was asked questions regarding the development of credits in the Tucson AMA, to which staff explained that the AWBA had purchased credits in Tucson earlier in 2024, as more credits were needed for that AMA. There was also a question regarding the 2019 Intergovernmental Agreement with the Community to develop firming credits, one regarding tribal firming obligations with the Community in general, and another regarding the Intentionally Created Unused Apportionment to be requested by Southern Nevada Water Authority starting in 2028.

The AWBA also recently received a letter from the Arizona Municipal Water Users Association (AMWUA), in which AMWUA requested that the 2025 Plan of Operation indicate how the AWBA intends to better prepare for distributing its Long-Term Storage Credits for at least ten years. Dr. Bernat noted that this is outside of the scope of the Plan as it is for calendar year 2025, and as

Mr. Shapiro noted, the CAP Municipal and Industrial priority pool will not be impacted in that year. AMWUA also said that the AWBA should resume discussions on how it would distribute credits for firming. In response to this, AWBA staff added a section to the Plan on page 14 called Continuing Recovery Planning Conversations, which explains the intention of the AWBA to continue monthly coordination with ADWR and CAP to plan for recovery. Dr. Bernat noted that the AWBA has also initiated additional recovery planning conversations, which have met twice already, to discuss modifying the current Joint Shortage Analysis Model, and to potentially develop future tools for credit distribution. The next workshop is scheduled for January 28th. The AWBA is committed to maintaining discussions in 2025 and will continue to also monitor Colorado River negotiations towards potential future reengagement with stakeholders. That concluded the public comments received for the 2025 Draft Plan of Operation.

Chair Buschatzke asked Commission members if there were any questions.

Commissioner Olsen asked what the AWBA's worst-case-scenario firming obligation to the Community would be, for example under a Tier 2 shortage, and if the 11,200 AF left of predelivered credits would cover any potential firming for the Community through 2026. Dr. Bernat noted that estimates from CAP are required to calculate firming obligations, but that if the AWBA needed more than the volume of firming credits remaining, then there is a balance of 105,390 LTSCs that could be used. Any such decisions are made in conference with the Community. After 2026, if more credits are needed, the Intentionally Created Surplus (ICS) firming credits that the AWBA has been developing may also be used. Commissioner Olsen commented that the modelling indicates firming amounts are likely to remain similar to the present.

Chair Buschatzke followed this discussion to ask if there was an option in place with the Community to assign credits they can recover with their own wells once the AWBA runs out of predelivered credits. Dr. Bernat responded that according to the IGA, the AWBA checks with the Community multiple times every year to determine how the Community would like to receive their credits. To firm with LTSCs, the AWBA would transfer the credits to the Community's Long-Term Storage Account (LTSA), and it would be up to them to recover the credits.

Commissioner Braun asked if the predicted enforceability dates for the White Mountain Apache Tribe Water Rights Quantification Act (2027) and the Hualapai Tribe Water Rights Settlement Act (2029) are progressing along the anticipated timeframe, noting that the White Mountain Apache date has been pushed back at least once already, and directing the question to the Chair. Chair Buschatzke replied that it is difficult to predict, history has shown such dates hard to achieve, and asked attorney Jeff Heilman if it was correct that the final version of the Hualapai agreement had just been signed to make it consistent with the legislation. Mr. Heilman concurred. Chair Buschatzke responded with the hope that this would jumpstart discussions or actions towards the enforceability date of that settlement, although it is hard to predict when that would happen.

Commissioner Braun asked if there was any impact for the AWBA from the proposed Northeastern Arizona Indian Water Rights Settlement Act. Chair Buschatzke responded that there is no firming in the Northeastern Arizona Settlement, nor in the Yavapai-Apache Nation Water Rights Settlement Act currently in Congress. Mr. Heilman agreed. Chair Buschatzke said that both of these cases were in recognition of the nonavailability of NIA water going forward—

that water was taken off the table and the settlement was provided with all of Arizona's remaining unused Upper Basin Colorado River allocation. In the Yavapai-Apache Nation settlement, some additional Craigin water was also included to make up the water budget for the NIA water that came out of the settlement. Chair Buschatzke opined to Commissioner Braun that it is important to recognize that the tribes accepted this outcome. It was a recognition by all involved that there is going to be less water to live off of in the future, and that NIA water cannot be relied on in any way, shape, or form to be available. Commissioner Braun noted that it also appears to be a recognition that some previous tribal settlements focused on making sure the tribes received wet water, and an action to make sure to do that also, instead of relying on something that is not available. In the context of the AWBA it is also good to know that there will probably be less additional firming obligations going forward.

Chair Buschatzke thanked Commissioner Braun for the comment and asked if there were any further questions or comments from the Commission. There were none. A motion for action was provided by Commissioner Braun, with a second by Commissioner Olsen.

Chair Buschatzke made a call to the public for any online members who would like to address the Commission on the present motion. There were none. There was also no additional discussion from Commission members before the vote.

The 2025 Annual Plan of Operation was approved unanimously.

V. Discussion and consideration of action to approve the AWBA Calendar Year 2025 Water Operating Budget

Dr. Bernat presented the numbers that were included in the APO once more, explaining that this item was to approve these expenditures from the AWBA fund. The adoption of this budget indicates that the AWBA would be following the actions identified in the Plan of Operation. The same amount of estimated withdrawal fees intended to be spent on developing credits in 2025 was presented.

Chair Buschatzke asked for questions from the Commission.

Commissioner Braun asked what the procedure would be to amend the budget if credits became available for potential purchase and the AWBA requested funds from the CAP Board. Dr. Bernat explained that the IGA with CAWCD allows the AWBA to ask the Board to amend their resolution. As for the plan itself, the numbers presented are estimates, so there is always the possibility of using the funds that the IGA is in place for. Dr. Bernat and Chair Buschatzke called for input from present counsel. Mr. Heilman opined that the Plan of Operation would have to be amended. Chair Buschatzke expanded to state that the Commission would have to reconvene with a quorum, and propose action to amend the Plan in a formal way. Commissioner Clark responded that in the Municipal sector, it is very difficult to increase annual budgets once they have been set, and asked if it would be as easy to increase the AWBA budget as the present discussion indicated, or if more dollars should be added. Chair Buschatzke directed this question to the attorneys. Mr. Heilman asked for time to look at the agreement before providing an answer. Commissioner Clark noted that if it would be as difficult for the AWBA to increase their budget as for a municipality, then for next year it may be prudent to increase the budget as

a precaution. Dr. Bernat added that, should purchase opportunities arise and necessitate the AWBA approaching the CAP Board to ask for a resolution amendment, there is money in the CAWCD water storage tax account already. Commissioner Clark acknowledged this, and reiterated that his concern was about the budget itself. Chair Buschatzke asked Messrs. Heilman and Proano if, once they have an answer to this question, it would be allowable under Open Meeting Law to disseminate the answer to all Commission Members. Mr. Heilman said that he believed this was so. Chair Buschatzke requested that AWBA staff then also post the answer to the website, so that all members of the public can see it, to ensure transparency.

Commissioner Taylor asked for clarification on how such an instance differed from the standard process where new availability of credits is determined during the year and a request is made to the CAP Board for additional money, expressing the belief that this has happened on a continual basis in the past. Chair Buschatzke replied that in recent years, the AWBA has had carryover money and so has not had to go back for an amendment, although it seems this has been done in the past, and due diligence will be done to make sure all bases are covered appropriately.

Chair Buschatzke asked for further questions or comments from the Commission. There were none. A motion to approve the budget was provided by Commissioner Braun, and seconded by Commissioner Clark. Chair Buschatzke made a call to the public to address the Commission on this motion, and then for any further discussion by Commission members. There were no requests to speak from either call.

The Water Operating Budget was approved unanimously.

VI. Consideration of Executive Session for the purpose of the Commission giving direction to staff regarding potential LTSC purchase(s).

Chair Buschatzke reminded attendees that Executive sessions are not open to the public and noted that there was no action expected to come out of this session. If the Commission entered executive session, it would reconvene after for a call to the public before adjournment.

Commissioner Olsen provided a motion for the Commission to enter executive session; it was seconded by Commissioner Clark. Chair Buschatzke asked if there was any further discussion, there was none. The motion passed unanimously.

The meeting moved into executive session at 10:42 a.m.

The meeting returned to open session at 11:14 a.m. There was no action to be taken from executive session.

VII. Call to the Public

Chair Buschatzke called for public comments on agenda items other than those already offered for comment. There were none.

Future Meeting Dates:

Wednesday, March 19, 2025

Wednesday, June 18, 2025

Wednesday, September 10, 2025

Wednesday, December 3, 2025

The meeting adjourned at 11:16 a.m.