



Public Notice Pursuant to A.R.S. § 38-431.02

ARIZONA MUNICIPAL WATER USERS ASSOCIATION MANAGEMENT BOARD

MEETING NOTICE AND AGENDA

Wednesday, October 11, 2023 – 10:00 a.m.

**This meeting will be held as a Hybrid meeting.
Attendance in person is welcomed; Others may join via Zoom.**

Access this [Link](#) to join via Zoom. Meeting ID: 871 6047 0323
(Option to join by phone: 602-753-0140, same Meeting ID as above)

A. Call to Order

B. General Business—Items for Discussion and Possible Action

1. Approval of the Minutes from the September 13, 2023, Meeting
2. Next Meeting Date: November 8, 2023, 10:00 a.m.
3. 2024 Legislative Agenda
4. Governor's Water Policy Council
5. Current Conservation Efforts

C. Member Reports

D. Executive Director's Report

E. Future Agenda Items

F. Adjournment

*The order of the agenda may be altered or changed by the AMWUA Management Board. Members of the AMWUA Management Board may attend in person or by internet conferencing.

More information about AMWUA public meetings is available online at www.amwua.org/what-we-do/public-meetings, or by request.

Arizona Municipal Water Users Association

MANAGEMENT BOARD

MEETING MINUTES

September 13, 2023

HYBRID MEETING

MEMBERS PRESENT

Brian Biesemeyer, Scottsdale, Vice Chair
Kirk Beaty, Avondale
Silvana Burgos for Barbara Chappell, Goodyear
David Burks, Peoria
Tara Ford, Tempe
Troy Hayes, Phoenix
John Knudson, Chandler
Laura Hixson for Jessica Marlow, Gilbert
Ron Serio, Glendale

OTHERS PRESENT

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|----------------------------------|----------------------------|-----------------------------|
| Gretchen Baumgardner, Scottsdale | Kathy Ferris, AMWUA | Tina Sleeper, Tempe |
| Michelle Barclay, AMWUA | Jake Golden, Phoenix | Martin Stiles, CAP |
| Anthony Beckham, CAP | Simone Kjolsrud, Chandler | Drew Swieczkowski, Glendale |
| Paul Bergelin, AMWUA | Brad Moore, AMWUA | Warren Tenney, AMWUA |
| Harry Cooper, AMWUA | Jacob Perez Laurent, AMWUA | Sheri Trapp, AMWUA |
| | | Stefan Walston, Gilbert |

A. Call to Order

Mr. Biesemeyer called the meeting to order at 10:01 a.m.

B. General Business – Items for Discussion and Possible Action

1. Approval of the Minutes from the August 9, 2023, Meeting

Upon a motion made by Mr. Hayes and a second by Mr. Knudson, the AMWUA Management Board unanimously approved of the August 9, 2023, meeting minutes.

2. Schedule Next Meeting Date: Wednesday, October 11, 2023, at 10:00 a.m.

3. Overview and Status of the Governor's Water Policy Council

Mr. Tenney reported that while we have talked about the Governor's Water Policy Council at the last couple of meetings, today's meeting is an opportunity to give a more in-depth presentation and have discussion about the Governor's Water Policy Council. Since the Council has been given the task to come up with recommendations by the end of the year. We want to ensure you have the background and context from which the Council will be developing recommendations. To date, the Council and its Assured Water Supply Committee have discussed various ideas and concepts but have not yet presented or developed fully formed proposals.

This Council has two focus areas with two committees. One is rural groundwater and the other is the Assured Water Supply Program. The Governor's Water Council met last week and received an update on each of these committees' efforts.

Mr. Tenney explained that the Rural Groundwater Committee is pursuing a groundwater management framework for rural communities beyond AMA and INA's and exploring ways to require metering and reporting of groundwater pumping outside the AMA and INA.

Paul Bergelin, Water Policy Advisor shared about the Phoenix Groundwater AMA Model. The model shows a 4.9 million-acre-foot unmet demand by 2121, which has paused development outside of designated providers though development can continue in designated provider's service area.

Mr. Bergelin shared a map that shows the service areas for all designated providers in the Phoenix AMA in light green. Areas in blue are subdivisions that have certificates of assured water supply.

Mr. Tenney noted that the findings of the Phoenix AMA groundwater model should not be a surprise. There have been the Pinal AMA groundwater model, the Lower Hassayampa Sub-Basin model, and Reclamation's West Salt River Valley Basin Study that have shown that groundwater will no longer be physically available over the next 100 years or shortfalls in available supplies may occur sooner.

Mr. Bergelin reported that the Assured Water Supply Committee has been reviewing and making recommendations for changes to the Assured Water Supply (AWS) policies to address challenges raised by Phoenix AMA Groundwater model projections by strengthening the AWS Program by closing gaps in coverage and ensuring that future growth is not only dependent on mined groundwater by exploring new ways to enable development in areas where growth has been paused.

The Committee has discussed concepts for closing gaps or loopholes in the AWS program: incorporating Build-to-Rent developments into AWS Program; addressing wildcat subdivisions, and retiring grandfathered rights. Concepts have been suggested to address both but to date no proposal has been brought before the Committee.

Mr. Biesemeyer asked what is the process if someone develops a Build-To-Rent subdivision and then decides to sell all the homes? Mr. Tenney reported that this is one of the reasons why stakeholders want to address Build-to-Rent subdivisions is because they see it as a potential problem later if the owners want to. Under current rules, they wouldn't be able to sell homes unless they have a certificate. Ten to fifteen years down the road, we know it's going to be hard to obtain a certificate we run into the exasperating of the groundwater pumping. Build-To-Rent is not under any Assured Water Supply requirements, so it is good that we are looking at this now.

Mr. Knudson asked are they looking at retiring all grandfather rights or just the ones not being utilized? Mr. Tenney responded ones that are not being utilized.

Mr. Knudson asked are they looking at setting a new baseline for those since paying off those with grandfathered rights is going to be extraordinarily expensive? How does that work? Mr. Tenney said that the ADWR already has the authority to be able to retire grandfathered credits. They haven't today because it would require a lot of money. Those points were recognized and brought up by the Committee. There is interest in looking at Type 2 rights to reduce the impact. To date, there is no actual proposal on how to do this because of those reasons. The thought is to look outside of designated areas and look at how Type 2 rights could be moved around outside of designated providers.

Mr. Bergelin explained that the AWS Committee met on September 12, 2023, to review several questions and assumptions about the Phoenix AMA groundwater model. These assumptions include how ADWR determines where future wells will be placed to provide water for new development, why ADWR does not gradually ramp up pumping for new development, how much replenishment CAGR will undertake in the future, and how much future effluent will be available and discharged into the aquifer. The model was peer-reviewed, so it's difficult to see how any of the assumptions made were unreasonable.

At this September 12, 2023, meeting, ADWR staff reviewed different model runs they conducted using different assumptions intended to address criticisms of the Phoenix AMA groundwater model. Ultimately, none of these scenarios eliminated unmet demand projected by this model. This was the important point from the Committee meeting that even if ADWR changes the assumptions, the trajectory remains the same.

Mr. Bergelin reviewed the basic requirement of the AWS Program that requires developers of subdivided land to obtain a certificate commitment of water service from designated providers. The groundwater model must show enough groundwater is physically available to meet 100 years' worth of demands for certificate or analysis to be issued based on groundwater.

Mr. Bergelin explained that developers have preferred areas outside of designated providers using analyses/certificates based on groundwater because undeveloped desert land is less expensive; CAGR replenishment is an easy mechanism for offsetting unreplenished groundwater pumping; and avoids dealing with municipal development policies and impact fees.

Since ADWR has announced that it will not issue any more analyses of certificates of assured water supply based on groundwater in the Phoenix AMA, how development occurs could transition. However, the service areas of designated providers—including the ten AMWUA cities—are still open for development. Despite this freeze, there are some forms of groundwater pumping outside of these designated services areas that are allowed to continue in the Phoenix AMA. Two notable examples include pumping for Build-To-Rent properties and large commercial or industrial users.

With no more groundwater available under what has been the status quo approach for new growth under certificates and analyses of assured water supply, the AWS Committee is facing the challenge of how to allow development to continue where growth has been put on pause. Without a path forward for development, water will become increasingly politicized with the risk of undermining the AWS Program. Too much flexibility with a path forward for development risks undermining the AWS Program.

Mr. Bergelin reported that one of the concepts suggested is a hybrid designation to move away from the paradigm in which certificates are the basis for development in the outer ring of our valley to one in which designations anchor any future growth. As we have seen over the years among the AMWUA cities, there are many benefits from having a 100-year assured water supply designation. Therefore, there would be benefits if future growth outside of the AMWUA cities shifted towards the designation framework.

However, undesignated providers have faced hurdles to obtaining designation such as they must have a water portfolio robust enough to account for the current and future water usage before they can obtain designation and have an adequate customer base for financing new supply acquisitions and necessary infrastructure.

Mr. Bergelin explained that a hybrid designation concept for a limited period is meant to provide a path for an undesignated provider to obtain a standard designation by enabling building of infrastructure to deliver new water supplies necessary to obtain standard designation; capturing and gradually phasing out both current and new replenished groundwater pumping; reducing reliance on the CAGR and decrease its replenishment obligation. However, the question remains if a hybrid designation would improve the aquifer health and management?

Mr. Knudson stated that this transitional proposal is interesting. He asked how would it ensure the provider is able to get the water resources and how secure is CAGR?

Mr. Bergelin stated that one approach would be to tighten the requirements. In order for the provider to obtain the hybrid designation, they would have to show the amount of water supply they have available. If they don't have the supply available, you would not get the designation.

Mr. Knudson said Queen Creek has a right to Colorado River water, but they have no way to deliver it. Mr. Bergelin said the idea is that they would have the legal right to a water supply and would then have to bring it to their service area.

Mr. Knudson said potentially the delivery of water rights from Harquahala and McMullen would be predicated on water quality rules in the canal so at any point in time it could be stopped? Mr. Bergelin said that one of the requirements is to make sure you have enough water supply before applying. There are also milestones that need to be met and if those can't be met the transitional designation ends and no further growth can occur. Also, a penalty provision has been contemplated if a provider couldn't obtain a standard designation.

Mr. Biesemeyer asked what the time would take to migrate to this hybrid designation? Mr. Tenney stated that the hybrid designation wouldn't be immediately handed out since there would need to be airtight assurance that the provider will follow through with everything. One of the first steps is they must be able to show that they legally have access to new supply. Then your hybrid designation would be based on the amount of water you have and cover the amount of growth to occur. To secure water supply, it's not going to happen in the next couple of years. The reason why organizations have been pushing this concept is because it provides a path. It tells communities like Buckeye, Queen Creek, and other designated areas if they want to develop, this is the path they need to take to get there. Would this approach improve the health or the aquifer? Does it change the trajectory that we are currently on. How do we make sure it doesn't create a problem, like Build-to-Rent? These are important questions that must be answered.

Mr. Knudson added if they overbuild ahead of their supplies and can't perform, they could deplete the aquifer. Mr. Tenney responded that this is one of the issues that has been raised. As previously mentioned, there needs to be milestones and if a milestone is not met, they can't continue any new growth or have the designation. There are different ideas about the milestones. The goal is to make sure if they use the hybrid designation that they are able to get a standard designation and proceed in the same way as all of you have a standard designation.

Mr. Tenney reported regarding the CAGR, one of the reasons that stakeholders are interested in this concept is that it would shift us for future growth going forward to be under a designation framework. The CAGR is working on their plan of operation for 2025. Based on initial discussions they have presented to the CAWCD board, they are indicating that they should have enough water to meet their replenishment obligation for the next 30 – 40 years. If we move away from what has been the status quo and move toward a more responsible approach, that would be positive and that will be dependent upon having new supplies.

Mr. Biesemeyer asked if this is a 20-year process from hybrid to a standard designation? Mr. Tenney reported that the hybrid concept would be 20 years. Mr. Biesemeyer agreed that development shouldn't get ahead of that, and the concept is that there will be gates and milestones they must go through the process. Does the AMA or DWR set the hybrid designation? Mr. Tenney said that framework up to this point hasn't been defined. We are waiting for the proposal that ADWR put together. ADWR did ask Doug Dunham of EPCOR to work on this and Mr. Tenney participated as well on a small group to develop the concept. ADWR staff are looking at ideas as well. Buckeye and Buckeye Irrigation District have been circulating ideas also. We are waiting to see what is proposed so we can start analyzing.

Mr. Bergelin explained that the only way a designation-based growth paradigm (whether a hybrid designation or standard designation) can work is with the introduction of new water supplies.

Mr. Bergelin presented a list of water supplies that could be accessible in the near-term to support this designation-based growth paradigm: Transporting groundwater from the Harquahala INA, McMullen Valley, and Butler Valley; expanded Bartlett Dam water; Tribal leases; Direct potable reuse/Advanced Water Purification; LTSCs.

Mr. Tenney said the premise of the Assured Water Supply program is that new growth is not to occur solely on groundwater, so we need another supply. We knew the CAP was being constructed and provided the basis for the AMWUA cities' designations. We are not going to see another large federal project comparable to CAP. It's important for the state to step to invest further in the Water Infrastructure Finance Authority. It is important we have new supplies that back fill Colorado to meet your demands and protect the aquifer. We need to find additional supplies of water to develop on as a state.

Mr. Knudson asked what limitation will be put on pumping from Harquahala, McMullen Valley, and Butler Valley to prevent depletion? Mr. Bergelin responded that new growth can happen with a non-AMA source of groundwater, which includes transported water from these basins. There are limitations that are put in statute that dictate how much groundwater that can be withdrawn based on the amount of land that an individual owns.

Mr. Knudson said he would hate for Arizona to repeat the mistakes of Nevada and California where water is imported from other places at the detriment of those other places. Mr. Tenney said the challenge is that these basins have already been deemed available to the three AMA areas. As pointed out, there are certain requirements that must be met to use that water.

Brad Moore, Water Policy Analyst, explained potential concepts that would better regulate groundwater usage by certain industrial users. He explained how industrial groundwater pumping outside of a designated provider in the AMA amounts to a large amount of unreplenished groundwater pumping. The concepts include placing additional requirements on such industrial users in the management plan, or disincentivizing such industries through the Arizona Commerce Authority, or placing limits on the use of Type 1 and 2 grandfathered rights.

Mr. Tenney added that these are some of the ideas being proposed for discussion with the Assured Water Supply Committee to look at closing gaps as well as finding a path forward for growth to move forward from where it has been paused. The AWS Committee will meet again on the September 27th and the Governor's Water Council will meet in October. The presentation was to make sure the Management Board had a thorough background. AMWUA staff will work closely with the WRAG, the Management Board, and Board of Directors as proposals are developed.

Mr. Knudson asked if a copy of the hybrid designation proposal could be shared with members? Mr. Tenney responded his only hesitation is that the concept is being reviewed by ADWR and what they come up with will probably look different. The draft should it not be viewed as "the deal" since there is no formal proposal. It is important for AMWUA to be engaged in coming up with solutions as they Governor requested.

Mr. Biesemeyer asked when do you think something will come out? Mr. Tenney reported that ADWR said they are going to have a discussion on the 27th. Mr. Biesemeyer asked if we could provide it after the 27th to the WRAG. Mr. Tenney said yes, as soon as there is a proposal, he will get it distributed.

Ron Serio asked why would it have to be a municipal provider? Mr. Tenney clarified that in statute the term "municipal water provider" means also private that was the intent – public or private they need to hook up with them.

Mr. Burks asked isn't this the issue that EPCOR had? Mr. Bergelin said that is in part what we are trying to address.

Mr. Biesemeyer said he appreciated the presentation.

B. Member Reports

Mr. Biesemeyer said Scottsdale was starting another water academy class tonight. The water academy has been great at getting customers to appreciate what the water utility does.

C. Executive Director's Report

Mr. Tenney reported an updated regarding the Colorado River. Reclamation received over 200 letters commenting on the process for developing the post-2026 operating guidelines. Reclamation and the Basin States are already in discussion about the reconsultation. The Basin States are tasked with developing its own proposal by March so that it can be considered in the overall SEIS process. It will be huge lift for the Basin States to reach consensus but it will also be a challenge for Arizona to stay united since there are divergent interests and perspectives within our state.

Mr. Tenney reported that the Israeli Ministry of Foreign Affairs and the Arizona Commerce Authority is hosting a delegation of water technology companies from Israel at the end of October. The goal is to connect Arizona water users and providers with potential technological solutions as well as to attract investment from Israel into Arizona.

E. Future Agenda Items

No future agenda items were requested.

F. Adjournment

Mr. Biesemeyer adjourned the meeting at 11:28 a.m.

MANAGEMENT BOARD

INFORMATION SUMMARY

October 11, 2023

2024 Legislative Agenda

ANNUAL PLAN REFERENCE

Legislation

Effectively advocate with one voice at the Legislature.

- Monitor, analyze and clarify state and federal legislation of interest to our members.
- Engage with legislators to inform them about the issues important to AMWUA including identifying and working with legislators to champion water issues.

Strategic Plan: Collaborate and Advocate for Solutions, Safeguard Water Supplies, Reinforce Groundwater Management, Prepare for Impacts of Drought & Shortage, Pursue Post-2025 Water Policy

SUMMARY

The 2024 Legislative Agenda outlines the principles and priorities that will guide AMWUA's actions throughout the session. These principles and priorities are consistent with the AMWUA Board's existing "Legislative Policies & Procedures" and the approved Annual and Strategic Plans. The 2024 Legislative Agenda does not preclude AMWUA from taking a broader action on legislation that may arise per AMWUA's 2015 legislative policies and procedures.

The 2024 Legislative Agenda will provide a useful tool for each of the AMWUA members to incorporate into their individual legislative agendas and will increase collaboration and coordination between AMWUA staff and each member's InterGovs.

The following is AMWUA's proposed state Legislative Agenda for 2024. AMWUA staff will review this proposed legislative agenda with the Management Board at the October 11, 2023, meeting.

2024 AMWUA Legislative Agenda

Municipal Water Providers

Promote the fact that the AMWUA cities are open for business because they have demonstrated a 100-year assured water supply, do not rely solely on groundwater, and continually manage and invest in their water supplies and infrastructure.

Educate and emphasize that municipal water providers are ultimately responsible for providing water to their communities. Advocate for the Legislature to only take action that supports the ability of municipal water providers to meet their responsibility to provide for the long-term viability of their communities.

Arizona State Agencies

Promote the ability of the Arizona Department of Water Resources and Arizona Department of Environmental Quality to perform effectively their statutory responsibilities including through the retention of staff.

Advocate for further investment in water supplies, infrastructure, and conservation through the Water Infrastructure Finance Authority of Arizona and using its funds only for their intended purposes.

Arizona Water Management

Uphold and enhance the Groundwater Management Code, the 100-Year Assured Water Supply Program and the Phoenix AMA's Safe-yield Management Goal – all which protect our members' ability to serve their communities with reliable water supplies now and for future generations.

Colorado River

Support efforts to stabilize the Colorado River system while continuing to protect the existing priorities, rights, and contracts of our members' Colorado River water supplies.

Water Efficiency and Conservation

Support legislation that promotes practical, effective water efficiency and conservation.

Water Quality

Support legislative efforts to protect and improve the quality of AMWUA members' water supplies, including proposals to improve watershed management. Support a sustainable funding mechanism for the Arizona Water Quality Assurance Revolving Fund (WQARF). Support efforts that further advanced water purification.

RECOMMENDATION

It is requested that the AMWUA Management Board recommend to the AMWUA Board of Directors adoption of the proposed Legislative Agenda for the 2024 legislative session and consider including these issues into their respective municipal legislative agendas.

Suggested Motion: I move that the AMWUA Management Board recommend to the AMWUA Board of Directors approval and adoption of the proposed 2024 Legislative Agenda.

MANAGEMENT BOARD

INFORMATION SUMMARY

October 11, 2023

Governor's Water Policy Council

ANNUAL PLAN REFERENCE

Sustainable Water Management

Promote efforts and policies that will sustain and safeguard our members' water resources and prepare for critical water management issues.

- Governor's Water Council – Actively protect and promote our members' perspectives.
Strategic Plan: Facilitate our Strength in Numbers, Educate – Excel as an Expert and Resource, Collaborate and Advocate for Solutions, Safeguard Water Supplies, Strengthen Groundwater Management, Pursue Post-2025 Water Policy

SUMMARY

Governor Hobbs has established her Water Policy Council to update the tools available for managing groundwater by proposing changes to the Assured Water Supply Program and improving management of rural groundwater. The Governor is asking the Water Council to review and make recommendations by the end of 2023 that would improve challenges facing both issues. Subsequently, the Council has been divided into two committees to develop proposals for the Assured Water Supply Program and rural groundwater.

The Assured Water Supply Committee is tasked to close gaps in the Assured Water Supply Program and find a path for developing on the periphery of the Valley where new certificates have been paused. Both are to be accomplished in a way that does not weaken the overall Program. At the September 27th meeting of the Committee, ADWR presented its concept for an alternative path to designation.

AMWUA staff will give an update on the Governor's Water Policy Council and the Assured Water Supply Committee and review ADWR's proposal for an alternative path to designation.

RECOMMENDATION

The AMWUA Management Board is encouraged to ask questions and discuss the current activities regarding the Governor's Water Policy Council.

MANAGEMENT BOARD
INFORMATION SUMMARY
October 11, 2023

Current Conservation Efforts

ANNUAL PLAN REFERENCE

Conservation & Efficiency

Excel as a leader in water conservation by assisting our members with strategizing their program implementation and coordinating awareness about ongoing and new conservation efforts that enhance water resource supply sustainability.

Strategic Plan: Facilitate our Strength in Numbers, Educate – Excel as an Expert and Resource, Collaborate and Advocate for Solutions, Safeguard Water Supplies, Strengthen Groundwater Management, Prepare for Impacts of Drought & Shortage, Pursue Post-2025 Water Policy, Minimize Financial Impact, Interconnect Disciplines

SUMMARY

AMWUA staff will update the Management Board about AMWUA's recent efforts to advance conservation as well as promote the collective conservation and efficiency accomplishments of the AMWUA members.

RECOMMENDATION

The AMWUA Management Board is encouraged to ask questions and discuss AMWUA's current conservation efforts.