

CAGRD ENROLLMENT & ADWR OVERSIGHT OF PLAN OF OPERATION

Recommended Legislative/Administrative Changes “Final” Draft June 30, 2008

As agreed by the Stakeholders, the Small Group reviewed and discussed possible legislative and administrative changes to address issues related to enrollment in the Central Arizona Groundwater Replenishment District (CAGRD) and oversight by the Arizona Department of Water Resources (ADWR) of the Plan of Operation. The Small Group has not reached consensus on whether to recommend changes to the Stakeholders. The following possible changes are submitted to the Stakeholders for further discussion.

1. In order to ensure that prospective member lands comply with CAGRD’s enrollment process (and pay an enrollment fee), amend A.R.S. § 48-3774 as follows:
 - “A.5 The owner of the real property, or other person or entity, such as a property owners’ or homeowners’ association, if the person or entity has proper authority, records a declaration, WHICH HAS BEEN APPROVED BY THE DISTRICT, against the real property in the official records of the county where the real property is located that: . . .
 - C. Notwithstanding subsection A of this section, no real property qualifies as member land unless the municipal provider that is subject to the declaration records in the official records of the county where the real property is located an ~~instrument~~ AGREEMENT BETWEEN THE DISTRICT AND THE MUNICIPAL PROVIDER that contains both of the following PROVISIONS: . . .”
2. Recommend that CAWCD adopt a policy that if a member service area begins serving member lands, CAWCD will agree to increase the contractual cap on the member service area’s replenishment obligation.
3. Amend A.R.S. § 45-576.04.R to:
 - a. Give the Director of ADWR the authority to determine any time between the second anniversary and the eighth anniversary of the Plan of Operation that the Plan is no longer consistent with the management goal for one or more AMA. The statute currently allows the Director to make this determination between the second and sixth anniversaries of the Plan.
 - b. Require CAGRD to submit any revised plan within one calendar year of the Director’s notification to submit a revised plan, unless the Director extends

this time for good cause. The statute currently gives CAGR D two years to submit a revised plan.

4. Recommend that ADWR adopt a substantive policy statement on CAGR D to, as described in the White Paper, formally establish how it will (1) annually monitor the Plan and determine whether there has been an unexpected increase in projected groundwater replenishment obligations or an unexpected reduction in water supplies available to meet current replenishment obligations, and (2) determine whether a municipal provider will lose its DAWS under A.R.S. § 45-576.06.A and how ADWR will review an application to modify a DAWS. *See* pages 14, 15, 16 and 17 of the White Paper.
5. Amend A.R.S. §§ 45-576.02.C.2 and 45-576.03.M so that the planning dates clearly provide that the current Plan of Operation remains effective until at least one year after the date the next Plan must be submitted to ADWR.
6. Amend A.R.S. § 45-576.03, subsection S to make clear that the entire Plan of Operation does not expire if the Director determines for an AMA that a revised Plan is not consistent with achieving the management goal. This would ensure that the portions of the ten-year Plan that are not affected by the Director's determination on the revised Plan continue to be effective.

One way to accomplish this might be to track the language of subsection M (dealing with the Director's approval of the ten-year plan). Under this subsection, the Director must issue a decision for each AMA determining whether the Plan "shall be designated as being consistent with achieving the management goal of the AMA." The subsection further states that the "designation expires on January 1 of the year following year" CAGR D is required to submit the next ten-year Plan. An amendment to subsection S might read as follows:

"Unless the conservation district successfully appeals the director's determination pursuant to subsection Q of this section, if the director has made a determination for one or more active management areas that the conservation district's revised plan for operation is not consistent with achieving the management goal of that active management area pursuant to this section and the conservation district is unable to satisfy the director's concerns within sixty days after the director has notified the conservation district of the determination, the DESIGNATION PURSUANT TO SUBSECTION M OF THIS SECTION THAT THE district's plan IS CONSISTENT WITH THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA shall expire."