

## **SUSTAINABILITY POLICIES STAKEHOLDERS PROCESS**

### **Summary of Stakeholders' Recommendations**

**August 26, 2008**

#### **CAGR D Enrollment and ADWR Oversight of Plan of Operation**

##### Statutory Changes

1. CAGR D Enrollment Process

Amend A.R.S. § 48-3774 to require that the Member Land (ML) Declaration be approved by CAWCD prior to recordation and that CAWCD be a party to the ML Agreement. (The ML Declaration is an irrevocable declaration of covenants, conditions, and restrictions running with the land that includes the land in the CAGR D and subjects the land to the replenishment assessment. It is recorded with county in which the land is located. The ML Agreement is an agreement between the landowner and the municipal provider that will supply water to the land under which the water provider agrees to submit annually to CAGR D the water delivery information necessary to calculate the replenishment assessment for each tax parcel.)

Purpose: Ensure that prospective MLs comply with CAGR D's enrollment process and pay an enrollment fee.

2. ADWR Oversight of the Plan of Operation (Plan)

Amend A.R.S. § 45-576.03.R to:

- a. Give the Director the authority to determine any time between the second anniversary and the eighth anniversary of the Plan that the Plan is no longer consistent with the management goal for one or more AMA. (Currently, the Director has this authority only between the second and sixth anniversary of the Plan.)
- b. Require CAGR D 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. (Currently, CAGR D has two years to submit a revised Plan.)

Purpose: Help to ensure that CAGR D is operating under a Plan that continues to demonstrate consistency with the management goals of the Phoenix, Tucson, and Pinal AMAs.

3. Expiration of the Plan

Amend A.R.S. §§ 45-576.03.S, 45-576.02.C.2 and 45-576.03.M to:

- a. Prevent provisions of the current ten-year Plan from expiring that are not affected by the Director's determination that a revised Plan is not consistent with the management goal of an AMA.
- b. Ensure that the current ten-year Plan remains effective until at least one year after the date the next ten-year Plan must be submitted to ADWR.

Purpose: Help to ensure that CAGR D can continue to fulfill its responsibilities under the Plan even if certain portions of the Plan are no longer consistent with the management goal of an AMA, and that CAGR D is operating under a valid Plan while ADWR reviews the next proposed Plan.

Administrative Changes

1. ADWR Oversight of Plan

Recommend that ADWR adopt a substantive policy statement that is consistent with the principles and practices contained in the *White Paper on CAGR D Enrollment*. These principles and practices state how ADWR will 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 obligations. ADWR has stated that it intends to adopt such a substantive policy statement.

Purpose: Help to ensure that enrollment in CAGR D will not exceed the Plan's projections. The two standards by which ADWR determines whether the Plan remains consistent with the management goals of the AMAs (i.e., whether there has been an unexpected increase in projected groundwater replenishment obligations or an unexpected reduction in water supplies available to meet the current replenishment obligations) are not well defined. The interpretation of these standards is critical to ensuring that enrollment in CAGR D does not continue if the Plan is no longer consistent with the management goals of the AMAs.

2. Loss of Designation of Assured Water Supply (DAWS)

Recommend that ADWR include in the substantive policy statement discussed above how it will determine whether a municipal provider will lose its DAWS if ADWR determines that the Plan is not consistent with achieving the management goal for an AMA. ADWR has stated that it intends to adopt such a substantive policy statement.

Purpose: Help to provide more certainty about how ADWR will interpret this provision since there are significant economic and political ramifications from the loss of a DAWS. Under current law, if ADWR determines that the Plan is not consistent with achieving the management goal of an AMA or CAGR D is not in compliance with its replenishment

obligations for an AMA, a municipal provider that received a DAWS "on the basis" that its service area was a Member Service Area (MSA) of CAGR D will lose its DAWS. ADWR has stated that during the time it is reviewing any revised Plan, a municipal provider that received a DAWS on the basis that its service area was an MSA will have the opportunity to apply to modify its DAWS before the DAWS might expire to demonstrate that it can meet the consistency with the management goal requirement without reliance on CAGR D. ADWR has also stated that it would limit its review to the component the modification would address, resulting in an expedited review.

3. Increasing Cap on MSA Replenishment Obligation

Recommend that CAGR D adopt a policy that if an MSA begins serving an ML and such service was not contemplated when the MSA Agreement was signed, CAWCD will agree to increase the cap on its replenishment obligation under the MSA Agreement to cover the replenishment obligation associated with the ML.

Purpose: Ensure that the MSA can assume the responsibility for meeting the requirement of consistency with the management goal for the ML. Currently, most MSA Agreements impose a cap on CAGR D's replenishment obligations for the MSA. However, CAGR D cannot levy a replenishment assessment against a ML that is served by a MSA.

### **Location of Replenishment/Recharge and Hydrologic Impact of Pumping**

#### Statutory Change

Continue to work to determine if agreement can be reached on criteria under which CAWCD would be authorized by a change in state law to deliver water directly to a municipal provider in lieu of replenishing that water.

Purpose: The municipal provider would use the water delivered directly instead of pumping excess groundwater, thereby mitigating concerns about land subsidence, water quality deterioration, and growth on non-renewable groundwater supplies resulting from excess groundwater pumping.

#### Administrative Changes

1. ADWR Assessment

Recommend that ADWR complete its groundwater assessment as soon as possible, and that ADWR, CAWCD and the Stakeholders work together to determine how to address the problems identified in the assessment.

Purpose: Help to assuage and address concerns about the lack of a hydrologic connection between the location of withdrawals and the location of replenishment. ADWR is currently conducting an assessment of the AMAs to determine the areas where groundwater withdrawals are creating long-term problems. ADWR believes it is premature to address the location of replenishment until this assessment is completed.

## 2. Four-Foot Decline Limitation on Recovery Wells

Recommend that ADWR review the four-foot decline limitation on recovery wells (that withdraw stored water) and work with the Stakeholders in crafting any changes to this limitation in a timely manner. ADWR has stated that it intends to review this limitation in the development of the Fourth Management Plans.

Purpose: Examine whether this limitation is equitable and has significant water management benefits. Under current law, ADWR may issue a recovery well permit for a well outside the area of impact of the stored water only if recovery at the proposed location is consistent with the management plan and the achievement of the management goal for the AMA. In the Third Management Plans, ADWR has interpreted this provision to mean that the proposed recovery well must be located in an area experiencing an average annual rate of decline that is less than four feet per year. There are no similar limitations on service area wells used to pump groundwater or excess groundwater or on wells used for agricultural or industrial purposes.