

~ Water ~



amwua

Legislative Summary

Final

May 28, 2004

ARIZONA MUNICIPAL WATER USERS ASSOCIATION

2004 Legislative Summary

46th Legislature Second Regular Session

TABLE OF CONTENTS

SENATE BILLS - 2004	Sine Die: May 26, 2004 at 9:58 pm	May 28.....	1
S 1006	Drinking Water; Arsenic Standards Task Force.....		1
S 1062	Water Infrastructure Financing Authority (WIFA); Continuation		2
S 1313	Appropriation; Water Studies		3
S 1349	Water; Exempt Well Provisions		4
HOUSE BILLS - 2004	Sine Die: May 26, 2004 at 9:58 pm	May 28	6
H 2190	Water Quality; Aquifer Protection Permit Fees		6
H 2244	Water Rights; Zuni Settlement		8
H 2276	Waterless Urinals.....		9
H 2277	Water; CAGRD; Technical Correction.....		11
H 2278	Assured Water Supply Certificate Assignment.....		13
H 2355	Recreational Corridor Channelization Districts		15
H 2421	Water Monitoring Assistance Program; Continuation		16
H 2590	Stored Water; Recovery Wells		17
APPENDICES.....			20
Appendix A - HB 2590 Letter.....			20
Appendix B - Barbara Tuchman, Historian			22

* Indicates change from previous week.

**S 1006 Drinking Water; Arsenic Standards Task Force
~~Technical Correction; Public Health~~**

(Jarrett) Session Law establishes an 11-member task force on arsenic standards implementation to consider and make recommendations concerning federal arsenic standards for drinking water systems. It will consider infrastructure needs; problems of cooperation and coordination; and the feasibility of using loans, grants, and other financing mechanisms to assist in compliance. The report is to be readied and submitted by October 1, 2004.

Status

Senate NRT, Rules.

Do pass with striker amendment from Senate NRT.

Do pass from Senate Rules.

Do pass from House COW.

Passed Senate, 27 - 0.

Referred to House NRA, Rules.

Do pass with amendment from House NRA.

Do pass with amendment from House COW.

Passed House, 54 - 0.

Returned to Senate for concurrence in House amendments.

Senate concurred.

Passed Senate, 27 - 2.

Signed by Governor. Laws 2004, Chapter 170.

AMWUA Position

Support.

20 February: S 1006 was originally a public health technical correction. The striker in Senate NRT replaced it with language establishing an arsenic standards implementation task force as now indicated in the description above. The language, with the exception that the members of the task force are ineligible to receive compensation or reimbursement for expenses, is the same as that in H 2288, which

was sponsored and introduced in the House by *El Rechazado*. And we all know what has happened so far to him and his bills.

9 April: As is all too common with legislation of this sort, the amendment altered the membership of the taskforce. Previously, the chairs of the House and Senate committees with jurisdiction over water issues would cochair the task force. Now, one member of the Senate, appointed by the President, and one member of the House, appointed by the Speaker, will be the cochairs. (I guess it was determined that history shows it might be impossible to decide which committee in the House and in the Senate actually has jurisdiction over water issues.) Memberships were also granted to representatives of a county health or environmental agency from a county above 1.5 million in population and one with a population below 1.5 million.

S 1062 Water Infrastructure Financing Authority (WIFA); Continuation

(Allen) Water Infrastructure Financing Authority is continued until July 1, 2014.

Status

Referred to Senate NRT, Rules.
Do pass from Senate NRT.
Do pass from Senate Rules.
Passed Senate, 29 - 0.

Referred to House Env, Rules.
Do pass from House Env.
Do pass from House Rules.
Passed House, 51 - 0.

Signed by Governor. Laws 2004, Chapter 12.

AMWUA Position

Support. The Water Infrastructure Financing Authority has proven invaluable in assisting the financing of capital projects for drinking water, wastewater, and other water quality facilities throughout the state.

S 1313 Appropriation; Water Studies

(Binder) This bill would appropriate an unspecified amount of money (for now) to the Arizona Department of Water Resources for rural hydrologic or geologic water studies or issues and database updates. Identical to H 2289.

Status

Referred to Senate NRT, Approp, Rules.
Do pass with amendment from Senate NRT.

AMWUA Position

Support.

20 February: The amendment put in \$1 million for the studies. The bill's prognosis is not good.

S 1349 Water; Exempt Well Provisions

(Hellon; Burns J) On or after January 1, 2005, an exempt well may not be drilled in an active management area within the exterior boundary of the service area and within 100 feet of the operating distribution system of a municipal provider with an assured water supply designation unless the landowner of the well where the well is proposed to be located demonstrates to the satisfaction of the director of the Arizona Department of Water Resources that the municipal provider did not provide written verification to the landowner that water service would be available to the landowner within 30 days after payment of any applicable fee, unless delayed by force majeure or that connecting to the operating distribution system would exceed the total capital cost of drilling and fully equipping an exempt well or the applicant failed to obtain an easement from the applicant's land to the water distribution system.

Status

Referred to Senate NRT, Rules.
Do pass with amendment from Senate NRT.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 28 - 2.

Referred to House NRA.

AMWUA Position

No position at this time, but leaning towards support if properly amended. This bill doesn't accomplish that much but *más major de nada*. It is a step in the right direction in the management of exempt wells within municipal water service areas.

Position is now support. The amendment from Senate NRT measurably improved the bill. See 20 February note below for details.

5 February: Amendments can be expected and are necessary. Saying that an exempt well can't be drilled within the exterior boundaries of the service area and within 100 feet of the operating distribution system means that an exempt well can be drilled within the exterior boundaries just so long as it is located more than 100 feet from the operating distribution system. Not good. It is doubtful whether this language would preclude a repeat of last year's ruckus down in Baja, where five homeowners in an upscale, midtown, Tucson neighborhood of large lots received state permits to drill exempt wells to water their lawns and trees, etc., in an effort to combat what they felt were excessive city water rate increases designed to encourage conservation. From a groundwater management perspective, it is clearly preferable to have a use served by a

municipal provider with a replenishment obligation than to have that use served by an exempt well which has no groundwater management obligations whatsoever.

Likewise, an exempt well also can be drilled within 100 feet of an operating distribution system just so long as it is located outside the exterior boundaries of the service area. Not good *otra vez*. There are other questions. Is the 30-day “window of availability” workable? What is “force majeure,” a term that appears nowhere else in Title 45 and that is *francés* to boot? Is it just the connection cost or would it also include the cost of the water served through the connection? Also, “failed to obtain an easement” is loose language. Would any reason why an easement was not obtained meet the test?

20 February: The amendment definitely improved the bill. It removed the language dealing with the exterior boundary of a service area. Now an exempt well may not be drilled on land in an active management area if “any part of the land” is within 100 feet of the operating distribution system of a municipal provider with an assured water supply designation. Arguably, it will be much more difficult to locate a legal site within a service area, even if on a large lot, for an exempt well. But then there is always the possibility of a lot split. There does not appear to be any statute that restricts the use of groundwater withdrawn from an exempt well to the land from which the groundwater was withdrawn. The amendment also removed the force majeure phrase, tightened up the easement language, and allows for replacement exempt wells. Is the bill now perfect? Absolutely not. But it is a first step in the right direction concerning the regulation and management of exempt wells in active management areas. (*Después de todo, no se tomó Zamora en una hora.*) Further amendments can be expected. Indeed, efforts to deep-six this bill are still possible.

9 April: S 1349 was unable to get a hearing in House NRA. As a consequence, it was amended to H 2590 in Senate NRT. Assuming H 2590 passes the Senate and is returned to the House, the conference committee could be interesting. Exempt well legislation has been tagged a property rights issue.

* Indicates change from previous week.

H 2190 **Water Quality; Aquifer Protection Permit Fees**

(Huffman) This bill increases the amount of the fees the Department of Environmental Quality can charge for the issuance of or major modification of its aquifer protection permits to \$100,000. Annual aquifer protection permits registration fees are also increased as are those for dry well registrations. H 2190 is Prop 108 sensitive.

Status

Referred to House Env, Rules.
Do pass with amendment from House Env.
Do pass from House Rules.
Do pass with amendment from House COW.
Passed House, 44 - 12.

Referred to Senate NRT.
Do pass with amendment from Senate NRT.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 21 - 8.

Returned to House for concurrence in Senate amendments.
House concurred.
Failed House, 37 - 15. Prop 208 sensitive--- 2/3 vote needed.
House voted to reconsider.
Passed House on reconsideration, 42 - 17.

Signed by Governor. Laws 2004, Chapter 247.

AMWUA Position

No position at this time.

11 March: The amendment removed dry wells from the bill so the registration fee remains at \$10 per dry well instead of the proposed \$60. In addition, the amendment provided that the annual aquifer protection permits registration fees would remain at current levels.

9 April: The amendment increased the annual aquifer protection permits registration fees for discharges of 1 million to 9,999,999 gallons per day from \$3,000 to \$5,000, and from \$5,000 to \$8,500 for daily discharges in excess of 10 million gallons. The amendment also provided that for sites with more than one permit, the annual registration fee shall be based on the permit with the greatest gallons of discharge, and for any additional permits on the site the fee may not be more than \$1,000.

H 2244 Water Rights; Zuni Settlement

(Konopnicki, Hanson, Hubbs, O'Halleran) This bill allows an Indian tribe or the feds in trust for the Indian tribe, and as part of a Congressionally approved water rights settlement agreement, to sever 3,600 acre-feet of surface water rights from appurtenant lands within the Little Colorado River Basin without losing priority and transfer the right for use on other lands within the same basin for vegetative restoration use including wildlife.

Status

Referred to House Env, Rules.
Do pass with amendment from House Env.
Do pass from House Rules.
Passed House, 53 - 0.

Referred to Senate NRT
Do pass from Senate NRT.
Do pass from Senate Rules.
Do pass with technical amendment from Senate COW.
Passed Senate, 28 - 0.

Returned to House for concurrence in Senate amendments.
House concurred.
Passed House, 57 - 0.

Signed by Governor. Laws 2004, Chapter 93.

AMWUA Position

Support. This change in law is a necessary element of the Zuni Water Rights Settlement Agreement introduced in Congress. However, "vegetative restoration" is an undefined term though clearly it has something to do with the rehabilitation of riparian habitat. Further, "vegetative restoration" is a term which may not appear anywhere else in Title 45. Would this mean that the state or any of its political subdivisions which can now sever and transfer a right for recreation and wildlife purposes, could not sever and transfer a right for riparian habitat rehabilitation purposes?

5 February: The amendment clarified that the approval of the sever and transfer of the right is first by a court of competent jurisdiction and only if there is none would it be by the director. The delayed repeal of this bill is extended five years to December 31, 2019.

H 2276 Waterless Urinals
~~Solid Waste Management~~

(Hart) The s/e amendment requires that after January 1, 2005 waterless urinals shall be installed in all new state buildings that constitute capital projects.

Status

Referred to House Env, Rules.
Do pass with s/e amendment from House Env.
Do pass with amendment from House COW.
Passed House, 60 - 0.

Referred to Senate Gov.
Do pass with amendment from Senate Gov.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 19 - 7.

Returned to House for concurrence with Senate amendments.
House concurred.
Passed House, 59 - 0.

Signed by Governor. Laws 2004, Chapter 266.

AMWUA Position

No position at this time.

11 March: Given that waterless urinals are in place in some buildings at Northern Arizona University and Sky Harbor Airport, and are the subject of ordinances in the cities of Payson and Sierra Vista, and with the drought and all it is not surprising this issue arose. Testimony stressed the amount of water that could be saved----40,000 gallons/urinal/year and the reduced operation, maintenance, and repair costs that would result. Since this information came from an industry representative, we will refrain from a position until later.

9 April: The amendment removed the January 1, 2005 effective date, the "shall install" language and added efforts on existing state buildings. The operative language now reads: "Every effort shall be made to install water free urinals in all new state buildings constructed after the effective date of this act....and install water free urinals in existing state buildings. The Director of Administration shall endeavor to install as many water free urinals in as many state buildings if it is determined that their

use is in the best interest of the state, given all the circumstances.” (sic) I think we may eventually need a special task force to determine whether the use of water free urinals are in the best interest of the state and what “given all the circumstances” actually are.

H 2277 Water; CAGR; Technical Correction

(Hart) A vehicle. See 5 March note below for explanation of s/e amendment.

Status

Referred to House Rules.
Additionally referred to House Env.
Do pass with s/e amendment from House Env.
Do pass from House Rules.
Do pass with amendment from House COW.
Passed House 58 - 0.

Referred to Senate NRT.
Do pass from Senate NRT.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 26 - 0.

Returned to House for concurrence with Senate amendments.
House refused to concur. Free conference committee.
House: Hart, Clark, C. Gray.
Senate: Jarrett, Blendu, Brown.
Recommendation: Adopt Senate version with amendments.
Senate adopted conference report.
Passed House, 52 - 0.
Passed Senate, 30 - 0.

Signed by Governor. Laws 2004, Chapter 318.

AMWUA Position

No position. Some of the changes involving the Central Arizona Groundwater Replenishment District are problematic considering the current stakeholder issues on the table with respect to the development of the Central Arizona Groundwater Replenishment District's Operating Plan. The replenishment reserve obligation is a key element of the plan which is scheduled to be adopted in June of this year. On the other hand, the proposed changes to the Mohave County Water Authority appear straightforward. The Mohave County Water Authority wants to store or bank water in central Arizona using the facilities of the Central Arizona Water Conservation District or Central Arizona Project. At some point in the future, the Mohave County Water Authority would exchange the water banked in central Arizona for Colorado River water. If one can accept

Nevada's legal right to do the same, it would be hard to argue against an Arizona political subdivision having the same privilege.

27 February: Apparently, this will be the vehicle to carry H 2150, another of *El Rechazado's* bills that was never assigned to committee.

5 March: This bill was the vehicle. It makes a number of technical changes to last session's legislation that created a replenishment reserve obligation for the Central Arizona Water Conservation District acting as the Central Arizona Groundwater Replenishment District. This bill also clarifies that the Mohave County Water Authority has the legal ability to store or bank water outside of Mohave County for future recovery or exchange. In addition, the s/e amendment provided that the acquisition of electricity or other forms of energy by the Central Arizona Water Conservation District for the purposes of pumping Central Arizona Project water shall not be subject to any state or municipal transaction privilege or use tax. An amendment to the s/e amendment made that tax exemption retroactive to 1985, apparently the first year in which the Central Arizona Water Conservation District purchased energy to pump Central Arizona Project water.

19 March: The House COW amendment removed the 5% cut to the aquifer for water recharged by the Central Arizona Groundwater Replenishment District to satisfy its replenishment obligations or provide for its replenishment reserve duty. If, however, the Central Arizona Groundwater Replenishment District transfers or assigns any of its storage credits in its replenishment reserve account for anything other than to satisfy its replenishment obligation, then 5% of the transferred or assigned credits will be permanently extinguished.

23 March: The COW floor amendment clarifies that the Central Arizona Project water being stored by SRP qualifies as long-term storage credits for recovery for future industrial use at electrical generating facilities, i.e., the Santan Expansion Project in the Town of Gilbert.

14 May: The bill is in conference committee to fix the Salt River Project amendment. It seems the version passed needs some technical fixes and retroactivity and active management area-specific clauses.

H 2278 Assured Water Supply Certificate Assignment

(Hart) Established conditions under which an assured water supply certificate holder may assign that certificate to another person.

Status

Referred to House Env, Rules.
Do pass with amendment from House Env.
Do pass from House Rules.
Do pass with amendment from House COW.
Passed House, 58 - 0.

Referred to Senate NRT.
Do pass from Senate NRT.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 27 - 0.

Returned to House for concurrence with Senate amendments.
House concurred.
Passed House, 52 - 0.

Signed by Governor. Laws 2004, Chapter 238.

AMWUA Position

Support. The Arizona Department of Water Resources seems okay with the bill.

5 March: The amendment clarified that in an assignment, the subdivision plat, plan, or map on the basis of which the assured water supply certificate was originally issued has not changed with respect to an increase in the total number of housing units or an increase in the total water demand for the subdivision. An emergency clause was also added. Guess somebody needs this pronto.

23 April: The House engrossed version put a ten-year limitation on any assignment after the original certificate was issued. The first Senate floor amendment waives that limitation if a minimum of 500 lots within the subdivision covered by the certificate have been sold to individual home buyers. *No nota*. The second floor amendment first made a number of stylistic, or what can be called elegance changes. Second, it provided a "modified" notice provision. Under the House engrossed version, assignments were exempted from public notification requirements. Now the director shall post notice of the assignment application on the Department of Water Resource's Web site and the public has the right to comment within 14 days after the notice appears on the Web. The director shall consider such comments in making the

decision, but the commenter is not party at interest and the commenter is not entitled to either an administrative hearing before or after the decision or a judicial review of the director's decision. *Más major de nada* I suppose. But giving someone the sleeves off your vest does come to mind.

H 2355

**Recreational Corridor Channelization Districts
Driver Licenses; Source of Identification**

After preparation of a watercourse master plan by a county flood control district and with the approval of all affected cities and towns and with the signatures of property owners that own more than 50% of the real property within the boundaries of a proposed Recreational Corridor Channelization District, the Board of Supervisors may establish such a district. Governed by a five-member appointed board, a Recreational Corridor Channelization District would be able to acquire and hold real property in a floodplain; construct, operate and maintain floodway conveyance and recreational facilities in the floodplain; and issue special assessment lien bonds, refunding bonds, and bond anticipation notes. For us water buffalos, a Recreational Corridor Channelization District must operate in a manner consistent with the activities of planned or permitted underground water storage facilities that are within the district and shall not reduce the effectiveness, increase the cost, or in any way impede the operations of such underground storage and recovery facilities. The bill also provides that for effluent stored in a managed underground storage facility that is located in a Recreational Corridor Channelization District, the director of the Department of Water Resources may increase the storage credits earned from 50% to 95% if (1) the effluent was not discharged into the stream where the facility is located before the permit application for that facility was filed, and (2) the director of the Department of Water Resources determines that the storage of effluent in the facility will provide a greater benefit to aquifer conditions than would otherwise accrue if the effluent is used or disposed of in another manner.

Status

Referred to Senate NRT, Rules.
Do pass as striker amendment from Senate NRT.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 29 - 1.

Returned to House for concurrence with Senate amendments.
House refused to concur. Free conference committee.
House: Biggs, Landrum Taylor, Quelland.
Senate: Blendu, Allen, Arzberger.
Recommendation: Accept Senate amendments with exceptions.
Passed House, 36 - 15.
Passed Senate, 29 - 0.
Signed by Governor. Laws 2004, Chapter 321.

AMWUA Position

No position.

9 April: H 2355 is a revamped version of H 2614 which failed to receive a hearing in the House. The revamped version eliminates the ability for a Recreational Corridor Channelization District to issue general obligation and revenue bonds and levy a property tax with voter approval. The H 2614 version also flatly stated that water (not just effluent) stored in a managed underground storage facility that is constructed in a Recreational Corridor Channelization District will be credited at 95%. In other words, the director of Department of Water Resources would have no discretion. Under H 2355, the director may now have enough discretion, I believe, to easily keep the credits at 50%.

H 2421 Water Monitoring Assistance Program; Continuation

(Gullett, Burns J., Chase, Clark, Downing, Huffman; Allen) The automatic repeal of the Department of Environmental Quality's Water Monitoring Assistance Program for public water systems is repealed, thereby making the program permanent.

Status

Referred to House Env, Approp.
Do pass with amendment from House Env.
Do pass from House Approp.
Do pass from House Rules.
Do pass with amendment from House COW.
Passed House, 57 - 0.

Referred to Senate NRT.
Do pass from Senate NRT.
Do pass from Senate Rules.
Passed Senate, 29 - 0.

Signed by Governor. Laws 2004, Chapter 140.

AMWUA Position

Support.

13 February: The amendment extended the life of the program to January 1, 2010.

H 2590 **Stored Water; Recovery Wells**

(Burns J, Chase, Hershberger, Huffman, O'Halleran) Under current law, persons who store water underground pursuant to an underground storage facility permit and then want to recover that water (or credits) from within the hydrologic impact area of that facility face minimal regulatory hurdles. If, however, that person subsequently wants to transfer or sells those credits to another person who wants to recover those credits, the regulatory hurdles for the new person increase significantly even if the credits will be recovered from within the hydrologic impact area of the facility. This bill would end that distinction between the original and subsequent owner of the stored water so long as the stored water is Colorado River water.

Status

At last, referred to House NRA.
Do pass from House NRA.
Do pass from House Rules.
Do pass from House COW.
Passed House, 57 - 0.

Referred to Senate NRT.
Do pass with amendment from Senate NRT.
Do pass from Senate Rules.
Do pass with amendment from Senate COW.
Passed Senate, 16 - 10.

Returned to House for concurrence in Senate amendments.
House refused to concur. Free conference committee.
House: J. Burns, Hubbs, Jackson.
Senate: Hellon, Arzberger, Blendu.
Recommendation: Accept House engrossed version.
House adopted conference report.
Senate adopted conference report.
Passed Senate, 23 - 6.

Signed by Governor. Laws 2004, Chapter 300.

AMWUA Position

Support. At this point, there is general consensus among the Arizona water community that ending this distinction, insofar as the water that was stored was Colorado River water, makes sense logically and hydrologically. Of course, it begs the question why not for all other kinds of water.

5 March: After virtually swallowing an elephant Monday in House Environment, Wednesday saw House NRA virtually choke on a gnat. Remember, H 2590 is a consensus bill which has the support of the Arizona water community, is relatively simple in concept, and which arrived in committee without amendment. Nevertheless, the bill was subjected to well over one hour of discussion, most of which wasn't even on point! I guess the reason for all the talk was that the bill simply made so much sense. A bill that is logical, economical, and fair always seems to have three strikes against it. Indeed, one can argue that H 2590 is really a property rights bill. If I can purchase and store Central Arizona Project water underground and recover that Central Arizona Project water at a later date from area where I stored it (area of hydrologic impact) without jumping through a number of additional statutory and regulatory hoops, why must the person to whom I choose to sell or transfer my property have to jump through a number of statutory and regulatory hoops even though the Central Arizona Project water will be recovered from area where it was stored? Is not the value of my property potentially reduced? Is this akin to down-zoning? If this is special legislation, so be it. Enough rant. Here's hoping for easier sailing on the floor.

9 April: Since S 1349, dealing with exempt wells, was unable to get a hearing in House NRA, it was amended to H 2590 in Senate NRT. Assuming H 2590 passes the Senate and is returned to the House, the conference committee could be interesting. Exempt well legislation has been tagged a property rights issue.

23 April: H 2590 was being held in Rules by Senator Blendu. It is now out. However, Senator Blendu will run a floor amendment to make the new exempt well restrictions applicable only to the Tucson Active Management Area. Such is based on his belief that the new language unjustifiably limits private property rights. To get it out of Rules, Baja Arizona agreed not to oppose his amendment. Nevertheless, whether differentiating between Active Management Areas, especially between the Tucson and Phoenix Active Management Areas, passes constitutional muster is debatable. *Está por ver*. However, what is indisputable is that the amendment provides *nada* in the way of water management or geo-hydrological rationales. It is simply Water Resources Mismanagement 101. See Appendix A for a reprint of a letter sent to Senator Blendu on this subject.

30 April: The new entries in the bill status section above do not tell, in fact they hide, the real story. On Monday, Senator Blendu offered his floor amendment to make the new exempt well restrictions applicable only to the Tucson Active Management Area. After arguing that the "problem" was really only a Tucson Active Management Area problem and that the Arizona Department of Water Resource's concern with his amendment was administratively based (the necessity to promulgate a different rule package), the proposed floor amendment passed 12 - 11. Note that seven Senators did not vote. Now move to the end of the COW session. When the Senate arose to accept the COW report, Senator Chevront moved to amend the COW report to exclude Senator Blendu's floor amendment. The motion carried 16 - 14. Not surprisingly, there were a number of unhappy campers, both legislators and non-legislators. However, we are pleased that the best interests of prudent water resources

management prevailed, for the time being, and we especially commend Senators Allen, Binder, and Mead for their courageous vote.

What now? *Estoy despistada*. But, after passing the Senate as amended 16 - 10, the legislative Web site indicated H 2590 was transmitted to the House for action on Senate amendments. Assuming first and foremost that the bill isn't permanently lost somewhere in somebody's desk drawer, Representative J. Burns, as prime sponsor of H 2590, could move to concur. Whether the bill would then be able to pass the House is problematic at best. Alternatively, the bill could go to a conference committee and the Blendu amendment could be added back in. Doing that would probably ensure House passage, but it would likely entail a bitter battle when it was returned to the Senate. If it were to pass the Senate with the Blendu amendment and sent to the Governor, it becomes prime veto bait. On the other hand, the conference committee could remove all sections of H 2590 dealing with exempt wells and retain only those sections dealing with stored water recovery, i.e., H 2590 as it passed the House in the middle of March. Conventional wisdom (which sometimes is neither conventional nor wise) holds that would almost guarantee House and Senate passage and remove the veto possibility. Next year, exempt wells! *Después de todo, no se tomó Zamora en una hora*. Stay tuned.

7 May: Conventional wisdom rules. (See 30 April note above.) All references to exempt wells will be removed from H 2590. A new effort will begin this summer to once again craft a consensus bill that equitably addresses the problems associated with new exempt wells and municipal water provider service areas in active management areas. *Recuerden Bajans, algunas veces nada es más major de alguna cosa*.

APPENDICES

Appendix A

HB 2590 Letter

April 16, 2004

The Honorable Robert Blendu
Arizona State Senate
1700 West Washington Street
Phoenix, Arizona 85007

RE: HB 2590 STORED WATER; RECOVERY WELLS, EXEMPT WELLS

Dear Senator Blendu:

I have been informed that you plan to offer a floor amendment to HB 2590 that would make its exempt well provisions applicable only to the Tucson Active Management Area (AMA). On behalf of the Cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe, and the Town of Gilbert, all of whom are located in the Phoenix AMA and who comprise the membership of the Arizona Municipal Water Users Association (AMWUA), I urge you to reconsider your amendment.

AMWUA and its members realize that AMAs are different. Indeed, the groundwater management plans and the assured water supply rules of the Arizona Department of Water Resources, for example, recognize that reality. However, the differences in treatment are based on geo-hydrological and prudent water resource management criteria. I am unable to discover any such criteria that would justify having the exempt well provisions of HB 2590 apply to the Tucson AMA and not to the Phoenix AMA as well.

It is my understanding that your opposition to the exempt well provisions involves a concern about private property rights. That concern is legitimate and I respect it. However, having said that, I must caution that I do fear that statutorily balkanizing private property rights between AMAs might set a dangerous precedent with a multitude of unforeseen consequences.

Thank you for your attention to our concerns. If you have any questions, I am at your convenience.

Yours truly,

Bob McCain
Program Manager

cc: Members of the Arizona State Senate
Herb Guenther, Director Arizona Department of Water Resources

Appendix B

Barbara Tuchman, Historian

Barbara Tuchman, Historian -

"Folly is a perverse persistence in a policy that is demonstrably unworkable or counterproductive."

"If the mind is open enough to perceive that a given policy is harming rather than serving self-interest, and self-confident enough to acknowledge it, and wise enough to reverse it, that is a summit in the art of government."

**Arizona Municipal Water Users Association
Selected Bills of Municipal Interest
Legislative Session**

Senate Bills - Final

as of: May 28, 2004

No.	Title	Sponsor	Senate					3rd Read	House					Conf Comm	Gov Sign
			Committees	CoW	3rd Read	Committees	CoW		3rd Read						
1006	Drinking Water; Arsenic Standards Task Force	Jarrett	NRT	Rules			Passed 27-0	NRA	Rules			Passed 54-0	Passed Senate 27-2	Chapter 170	
			+++++					+++++							
1062	Water Infrastructure Financing Authority (WIFA); Continuation	Allen	NRT	Rules			Passed 29-0	Env	Rules			Passed 51-0		Chapter 12	
			+++++					+++++							
1313	Appropriation; Water Studies	Binder	NRT	Approp	Rules										
			+++++												
1349	Water; Exempt Well Provisions	Hellon; Burns J	NRT	Rules			Passed 28-2	NRA							
			+++++					+++							

Legend

- +++++ indicates AMWUA support
- indicates AMWUA opposition
- ***** indicates neutral or no position by AMWUA

**Arizona Municipal Water Users Association
Selected Bills of Municipal Interest
Legislative Session**

House Bills - Final

as of: May 28, 2004

No.	Title	Sponsor	House				3rd Read	Senate				Conf Comm	Gov Sign	
			Committees	CoW	Committees	CoW		3rd Read						
2190	Water Quality; Aquifer Protection Permit Fees	Huffman	Env	Rules			Passed 44-12	NRT	Rules			Passed 21-8	Passed House on reconsideration 42-17	Chapter 247

2244	Water Rights; Zuni Settlement	Konopnicki, Hanson, Hubbs, O'Halleran	Env	Rules			Passed 53-0	NRT	Rules			Passed 28-0	House Concurred Passed 57-0	Chapter 93
			+++++											
2276	Waterless Urinals	Hart	Env	Rules			Passed 60-0	Gov	Rules			Passed 19-7	House Concurred Passed 59-0	Chapter 266

2277	Water; CAGR; Technical Correction	Hart	Rules	Env			Passed 58-0	NRT	Rules			Passed 26-0	Passed Senate 30-0	Chapter 318

2278	Assured Water Supply Certificate Assignment	Hart	Env	Rules			Passed 58-0	NRT	Rules			Passed 27-0	Passed House 52-0	Chapter 238
			***+++++											
2355	Recreational Corridor Channelization Districts							NRT	Rules			Passed 29-1	Passed Senate 29-0	Chapter 321
			+++++											
2421	Water Monitoring Assistance Program; Continuation	Gullett, Burns J., Chase, Clark, Downing, Huffman, Allen	Env	Approp	Rules		Passed 57-0	NRT	Rules			Passed 29-0		Chapter 140
			+++++											
2590	Stored Water; Recovery Wells	Burns J., Chase, Hershberger, Huffman, O'Halleran	NRA	Rules			Passed 57-0	NRT	Rules			Passed 16-10	Passed Senate 23-6	Chapter 300
			+++++											

Legend

- +++++ indicates AMWUA support
- indicates AMWUA opposition
- ***** indicates neutral or no position by AMWUA