

MANAGEMENT BOARD

MEETING MINUTES

August 9, 2017

VOTING MEMBERS PRESENT

Mr. Craig Johnson, Glendale, Chairman
Mr. Kevin Artz, Avondale
Mr. Brian Biesemeyer, Scottsdale
Ms. Marilyn DeRosa, Tempe
Mr. John Knudson, Chandler
Ms. Jessica Marlow, Gilbert
Ms. Karen Peters, Phoenix
Mr. Javier Setovich, Goodyear
Mr. Mike Weber, Peoria
Mr. Jake West, Mesa

OTHERS PRESENT

Barry Aarons, The Aarons Co.	Kathy Ferris, AMWUA	Stuart Peckham, SRP
Gretchen Baumgardner, Tempe	Brett Fleck, AMWUA	Diana Piña, AMWUA
Cindy Blackmore, Avondale	Sara Gerlitz, Phoenix	Kathy Rall, Scottsdale
Jessica Blazina, Avondale	Lacey James, Avondale	Richard Siegel, SRP
Cynthia Campbell, Phoenix	Sam Jaskolski, AMWUA	Tony Staffaroni, CAP
Keith DeVore, Mesa	Pat Kossan, AMWUA	Drew Swieczkowski, Glendale
Miranda DeWitt, Mesa	Frank Milam, Phoenix	Warren Tenney, AMWUA
Brian Draper, Mesa	Haley Paul, Gilbert	Carol Ward-Morris, AMWUA
Alan Dulaney, Peoria	Brian Payne, AMWUA	Tony Woodrum, Avondale

A. Call to Order

Mr. Johnson called the meeting to order at 10:02 a.m.

B. General Business – Items for Discussion and Possible Action

1. Approval of the Minutes from the June 14, 2017 Meeting

Upon a motion by Ms. Peters and a second by Mr. Biesemeyer, the AMWUA Management Board unanimously approved the minutes of the June 14, 2017 meeting.

2. [Next meeting scheduled for Wednesday, September 13, 2017, at 10:00 a.m., at the AMWUA office](#)
3. [Governor's Water Discussion](#)

Mr. Tenney stated that this summer has been busy since Governor Ducey launched the Governor's Water Discussion in June to look at Colorado River and groundwater issues. He said the Governor's Office asked AMWUA to keep its members up to date on the issues being discussed, and so AMWUA has been doing so through meeting summaries and discussions with the Water Resources Advisory Group (WRAG).

Mr. Tenney reported that the Governor convened a Plenary Group comprised of state leaders, including Scottsdale Mayor Jim Lane. He said Mayor Lane asked Brian Biesemeyer, Kathryn Sorensen, and himself to support Mayor Lane in this effort and attend the work group meetings. He commented that the three have been working well together to coordinate and keep each other informed. The Governor's Chief of Staff, Kirk Adams, has been leading the Colorado River Work Group and the Groundwater Work Group meetings, which are held every two weeks.

Mr. Tenney said the Colorado River Work Group has drawn the most attention due to the State laying out a number of issues it wants to accomplish. He said the overall objective is to gain support for the Drought Contingency Plan (DCP) and put DCP Plus in place. Mr. Tenney said the State has also sought to clarify the role of the Central Arizona Water Conservation District (CAWCD) in regards to Colorado River water policy.

Mr. Tenney reviewed the issues that have been discussed at the Colorado River Work Group meetings and have been recommended to move forward to the Plenary Group:

DCP & DCP Plus – Mr. Tenney stated that the Arizona Department of Water Resources (ADWR) has given a high-level overview about the importance of the Drought Contingency Plan. Regarding DCP Plus, he said ADWR is pursuing an approach that allows for more flexibility in determining how to reduce shortage probabilities by targeting Lake Mead elevations above 1,075 feet on a five-year rolling basis. He also noted that ADWR staff is working with CAWCD to complete modeling that would determine the framework for how much water should be conserved at certain triggers and will discuss DCP Plus in more detail once that is completed.

Tribal Intentionally Created Surplus – Mr. Tenney said the 2007 Interim Guidelines instituted Intentionally Created Surplus (ICS) as an incentive for a Contractor to store water in Lake Mead to help prevent shortage declarations. He stated that to date, only CAWCD has created and accrued ICS. Mr. Tenney stated that the State believes that under the 2007 Interim Guidelines, tribes with a water right settlement that include an entitlement to mainstream Colorado River water delivered via the Central Arizona Project (CAP) System constitutes a Contractor and can therefore create ICS. He said the

Bureau of Reclamation also agrees that tribes can create ICS; however, CAWCD does not agree.

Mr. Tenney stated that the State has proposed a framework for how tribal ICS would work, in which the State would oversee all water being forborne by a Contractor in Arizona so that the right combination of ICS is used to keep Lake Mead at the appropriate level to forestall shortage. He noted that stakeholders have expressed general support for the Arizona ICS concept but have also expressed interest in what the details will be. He said CAWCD staff has concern that allowing individual entities to recover ICS could trigger or exacerbate a shortage; however, having the State oversee the exhibit for ICS would help to minimize or remove that concern. Mr. Tenney stated that the understanding is that tribal ICS is being proposed as a tool that would only be used when it is most advantageous to have additional water in Lake Mead.

Mr. Biesemeyer asked Ms. Ferris for her opinion regarding CAWCD's belief stated at last week's CAWCD Board meeting that the Secretary of the Interior has to sign a document in order for tribal ICS work. Ms. Ferris said she does not have the answer to that question at this time, but she has already begun extensive research on this complicated issue. She noted that this was the first time she heard the Bureau of Reclamation publicly say that they believe a tribe with a settlement that included mainstream water was a Contractor for purposes of the 2007 Guidelines. Ms. Ferris said she feels the Bureau of Reclamation did not take that position lightly and that she believes their position is based on significant research. She also noted that a lot of the positions taken by CAWCD's legal staff at the CAWCD Board meeting were not referenced to any statutory provision, case law, or supporting evidence for their position. She said in her mind this is just their position, because they have not backed it up with the necessary citation for others to see the basis for their opinion.

Mr. Tenney then reviewed three issues that the Colorado River Work Group has discussed dealing more directly with CAWCD:

Sovereign Immunity – Mr. Tenney reported that the State has proposed legislative language to clarify that CAWCD does not have sovereign immunity. He noted this proposal is consistent with the position that the AMWUA Board of Directors expressed in its April letter to the CAWCD Board. He said AMWUA appreciates that the CAWCD Board has stated they have no intent to use sovereign immunity in disputes with subcontractors; however, in response to the confusion raised this year and to ensure a future CAWCD Board does not use sovereign immunity as a defense, AMWUA believes this legislative language brings clarity.

Agreements Regarding Colorado River Water – Mr. Tenney said the State would like to have the ADWR Director's approval given prior to anyone beginning negotiations or entering into an agreement involving the use, storage, or conservation of Colorado River water. He reported that at last week's CAWCD Board meeting, CAWCD staff pointed out

a list of beneficial agreements that CAWCD has entered into over the years. He said CAWCD believes it needs this essential function to negotiate and enter into agreements with the United States for the use and delivery of Colorado River water and feels that the current arrangement has worked well and does not need to be changed. Mr. Tenney noted that in work group meetings, CAWCD and ADWR have debated about past negotiations, raising questions about how well the current arrangement is working; the differing opinions highlight the State's concern that difficulties have arisen with other states when CAWCD has asserted itself ahead of ADWR. He said clarification regarding the State taking the lead on Colorado River water agreements would be positive to ensure Arizona is speaking with one voice. He reported that stakeholders agreed to move this item on to the Plenary Group, and asked for clarification on some of the language to ensure that this is only referring to discussions about use, storage, and conservation of Colorado River water and does not infringe on agreements between Agriculture and the United States.

Mr. Biesemeyer agreed with the stakeholders' comments and emphasized the importance of making certain that the language is clear and specific so there are no unintentional consequences that have to be dealt with later.

Audit – Mr. Tenney said the State has proposed that the Auditor General regularly audit CAWCD for finances and performance, in an effort to increase transparency and accountability at CAWCD. He noted that there has been some debate regarding how often these audits should be performed with the State originally proposing three years but now suggesting five years.

Mr. Tenney next highlighted two proposals from the Groundwater Work Group that the State hopes will address concerns about new groundwater pumping:

Metering and Reporting – Mr. Tenney said the State is recommending that metering and reporting of groundwater pumping be done throughout the State, as opposed to only within Active Management Areas (AMAs), which is the current requirement. He noted that metering and reporting provides data for ADWR to better manage the AMAs; without having data throughout the State, it is difficult for ADWR to effectively consider new management tools for areas with problems like Mohave, La Paz, and Cochise counties. He said some have questioned if reporting is an unnecessary regulatory burden, especially if their area is not experiencing problems, to which ADWR countered that the only way to confirm that there is no problem is to have accurate data. Mr. Tenney reported that the State has proposed two alternatives for tomorrow's meeting: 1) metering and reporting all wells outside of AMAs, including exempt wells, or 2) measuring and reporting of all non-exempt wells with exceptions similar to those in AMAs. He said AMWUA staff believes that since exempt wells are not measured and reported within AMAs, it would be more effective to pursue the second alternative to ensure the State begins to measure and report wells outside of AMAs. Mr. Tenney said

this recommendation is appropriate for improving statewide groundwater management.

2025 Sunset – Mr. Tenney reported that the State is recommending removing the 2025 sunset for effluent created long-term storage credits, which AMWUA municipalities have expressed support for over the years. He said in the work group meetings, the Salt River Project (SRP) suggested looking at repealing legislation known as WaterBUD, of which the 2025 sunset is a component. He continued to say WaterBUD requires that groundwater pumping be completely offset by storing renewable water supplies underground before any long-term storage credits can be issued for stored water. Mr. Tenney stated that SRP convened a stakeholder meeting last week, where the Arizona Water Company and the Town of Queen Creek pointed out that long-term storage credits gained from their CAP subcontracts would benefit their service areas by recharging the water closer and reducing their reliance on the Central Arizona Groundwater Replenishment District (CAGR) to replenish water. He noted that AMWUA held a neutral position on repealing WaterBUD when potential legislation was considered in the 2016 legislative session.

Mr. Tenney said the Groundwater Work Group is meeting tomorrow and the Colorado River Work Group is meeting again on Friday. He also noted that the CAWCD Board plans to meet again next week to continue to discuss the issues raised by the Governor's Office, particularly forbearance, tribal ICS, excess water, and permanent system conservation. He said CAWCD has asked AMWUA to provide comments and give the Phoenix area municipal viewpoint on these issues, though it is not clear what they specifically want AMWUA to comment on right now.

Ms. Peters thanked Mr. Biesemeyer and Mr. Tenney for their work put into the Governor's Water Discussion. She said that it is very important for AMWUA to constructively weigh in on these efforts and to continue to play a role. She noted the importance of taking a coordinated, credible approach while discussing Arizona's water future with other states and the federal government. She stated that the Governor's Water Discussion is a great way to have these conversations and reach more certainty so operations can occur within clear parameters and emphasized the importance of seizing this opportunity.

Mr. Biesemeyer thanked Mr. Tenney for his professionalism upon receiving derogatory comments from the CAWCD Board while he was representing AMWUA at their meeting. Mr. Johnson echoed Mr. Biesemeyer's sentiments and noted appreciation for Mr. Tenney's efforts to keep the AMWUA Management Board apprised on these issues.

Mr. Tenney stated that if the AMWUA Management Board feels it is a good approach, these issues may be brought back in the next month or two for a formal recommendation to present to the AMWUA Board of Directors. Mr. Johnson agreed with Mr. Tenney's plan.

4. Update on Water Quality Standards Proposal for Non-project Water under the System Use Agreement

Mr. Tenney stated that AMWUA has continued to facilitate Water Quality Group meetings among the AMWUA municipalities, Southern Arizona, Apache Junction, the Gila River Indian Community (GRIC), and SRP to try to develop a collective proposal to present to CAWCD for a water quality standard for non-project water put into the CAP canal. He said a challenge for the Water Quality Group has been that the Phoenix area and Southern Arizona have different distinct experiences in how they have treated Colorado River water. He noted that the Water Quality Group has met three times, and that the most recent meeting was productive, bringing the Group closer to moving forward with a concept.

Mr. Tenney said prior to requesting proposals, CAWCD staff suggested the use of maximum containment level (MCL) drinking water standards in determining water quality standards for non-project water. He reported that the Water Quality Group looked at this option; however, they realized there is a fundamental problem with focusing on what is discharged into the canal, as opposed to what levels of constituents are in the canal. Mr. Tenney then gave an example of arsenic compounding in the CAP canal, significantly raising the arsenic parts per billion (ppb) by the time the water reaches Tucson.

Mr. Tenney stated that the Water Quality Group has been focusing on how to ensure that the water taken out of the canal is within the range of what is currently found in Colorado River water, which will determine what constituent levels are acceptable for water in the canal. He noted that the Group is starting at the end of the canal in Southern Arizona to determine what constituent levels work for them so they do not have to spend additional money, add additional treatment, and raise public concern. He said public perception of water quality is a very big concern for Southern Arizona. Mr. Tenney stated that as part of this process, the Group has also looked at what constituent levels are appropriate for Phoenix area treatment plants with the objective of not having to do additional treatment and add additional expenses because of the introduction of non-project water.

Mr. Tenney stated that SRP has been assisting the Water Quality Group by taking the information for a handful of major constituents and running models on scenarios with non-project water being introduced. He reported that the models displayed that the Colorado River water received was basically within historical levels, and thus is acceptable. He said this approach means that it will need to be revisited each time an entity wants to move non-project water through the CAP canal, or when a shortage is declared and less Colorado River water will be in the canal. Mr. Tenney noted that there would come a point where an entity wanting to discharge non-project water may have to treat for a particular constituent in order to ensure that downstream users have water that is acceptable at their treatment plants and in soil aquifer treatment in Southern Arizona.

Mr. Tenney said SRP is going to run a few more scenarios so that the Water Quality Group can include them in a presentation to CAWCD. The Water Quality Group has

been working on a presentation that explains their proposed approach in more detail. He noted the Group feels this approach meets their objectives and allows for greater certainty in managing the water quality in the CAP canal and believes it can work well with current conditions in the CAP canal, as well as during a shortage.

Mr. Tenney stated that proposals are being presented to CAWCD at the September 12th task force meeting, so a proposal would need to be completed by the end of the month.

Mr. Setovich commented that it is important to keep a strategy that is easily managed because this process is very complex. Mr. Tenney agreed because this is a new venture for CAWCD, but also expressed that he feels it is doable and there is encouragement that SRP is able to manage their water system in house, which is much more complex than what CAWCD would deal with.

C. Board Members' Updates

AMWUA Management Board members were invited to report on water activities in their city/town.

Gilbert: Ms. Marlow stated that Gilbert is working on its rate studies for water, wastewater, and solid waste; however, the Town's schedule has been extended because a new consultant will need to be selected.

Glendale: Mr. Johnson said the City of Glendale is working on its rate increases for water, wastewater, and solid waste and have held two of four public meetings, which are going well. He noted that Glendale's last rate increase was in 2010, and going forward will have more frequent, smaller rate increases rather than less frequent, larger rate increases. He also said four new fund balance policies have been set in place.

Goodyear: Mr. Setovich reported that Goodyear's agreement with SRP is still moving forward, and the City will begin advertising for proposals in the near future. He said the plant will be built in two phases, with the first being eight million gallons per day (mgd), and the second adding another eight mgd around 2030.

D. Executive Director's Report

Mr. Tenney reported that AMWUA would be hosting the second Finance Group meeting next week to bring member staffs together to discuss and compare notes regarding financing water issues.

Mr. Tenney stated that the Finance Audit Power (FAP) Committee of the CAWCD plans to revisit and update CAWCD's rate setting policy and wants to have a more informal dialogue with stakeholders as the policy is reviewed. He said in this process, AMWUA plans to continue to advocate that CAWCD taxes, in addition to capital charges, should be used for

federal repayment. Mr. Tenney said AMWUA is currently working on these issues with the WRAG and will keep the AMWUA Management Board apprised as discussions continue. The next FAP Committee meeting will be held in September.

Mr. Tenney said CAWCD has started another task force to look specifically at excess water and will hold its first meeting on August 17th. He noted that the formation of this task force is partially in response to the Governor's Water Discussion, which outlines excess water as being an issue the Governor wants addressed.

Mr. Tenney stated that AMWUA's new website will be premiered at the August AMWUA Board of Directors meeting. He said he will alert members when the new website is up and running, so they can begin to peruse the new site.

E. Future Agenda Items

There were no requests for future agenda items.

F. Adjournment

Upon a motion by Mr. Artz and a second, Mr. Johnson unanimously adjourned the meeting at 10:50 a.m.