



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

## **ARIZONA MUNICIPAL WATER USERS ASSOCIATION MANAGEMENT BOARD**

### **MEETING NOTICE AND AGENDA**

***Wednesday, January 12, 2022 – 10:00 a.m.***

**This meeting will be held via Zoom only.**

**Access this [Link](#) to join. Meeting ID: 836 5949 3939**

(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 December 8, 2021 Meeting
2. Schedule Next Meeting Date: February 9, 2022, 10:00 a.m.
3. Colorado River Conditions and Shortage
4. 2022 Legislative Session

#### **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](http://www.amwua.org/what-we-do/public-meetings), or by request.

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Arizona Municipal Water Users Association



## MANAGEMENT BOARD

### MEETING MINUTES

December 8, 2021

ZOOM TELECONFERENCE

#### VOTING MEMBERS PRESENT

Jessica Marlow, Gilbert, Chair  
Brian Biesemeyer, Scottsdale, Vice Chair  
Kirk Beaty, Avondale  
Tara Ford for Terry Piekarz, Tempe  
Chris Hassert, Mesa  
Craig Johnson, Glendale  
John Knudson, Chandler  
Karen Peters, Phoenix  
Cape Powers, Peoria  
Javier Setovich, Goodyear

#### OTHERS PRESENT

Barry Aarons, Aarons Co.	Brain Draper, Mesa	Kathy Macdonald, Mesa
Patrick J. Adams, AMWUA	Sam Draper, AMWUA	Diana Pina, AMWUA
Erin Andres, Phoenix	Gretchen Erwin, Goodyear	Jacob Perez Laurent, AMWUA
Michelle Barclay, AMWUA	Paulette Fenderson, Phoenix	Richard Siegel, SRP
Gretchen Baumgardner, Scottsdale	Kathy Ferris, AMWUA	Martin Stiles, CAP
Anthony Beckham, SRP	Brett Fleck, Peoria	Warren Tenney, AMWUA
Craig Caggiano, Tempe	Lauren Hixson, Gilbert	Sheri Trapp, AMWUA
Cynthia Campbell, Phoenix	Simone Kjolsrud, Chandler	Theresa Ulmer, Ulmer Consulting
Gregg Capps, Chandler	Karen Kruse, Phoenix	

#### A. Call to Order

Ms. Marlow called the meeting to order at 10:00 a.m.

#### B. General Business – Items for Discussion and Possible Action

1. [Approval of the Minutes from the November 10, 2021 Meeting](#)

Upon a motion made by Mr. Biesemeyer and a second from Mr. Hassert, the AMWUA Management Board unanimously approved the November 10, 2021 meeting minutes.

2. [Next meeting scheduled: Wednesday, January 12, 2022, 10:00 a.m.](#)

Arizona Municipal Water Users Association

### 3. [Colorado River Shortage Update](#)

Patrick Adams, Water Policy Advisor, reported on the current hydrologic conditions of the Colorado and the coordinated regional efforts responding to these conditions. Lake Powell and Lake Mead sit at 29% and 34% full, respectively. Even though less water will be taken out of the lakes under the Tier 1 reductions in the coming year, this supply remains vulnerable as there is no buffer of water in storage. Current conditions in the Upper Colorado River Watershed suggest that even with a productive snowpack, there could be limited runoff into the Colorado River due to the drier soil conditions. While it is early in the snow collection season, there remain indications that this year's runoff will be impacted.

To save water in Lake Mead, the Lower Basin States are seeking to leave 500,000 AF in the reservoir each year from 2021 to 2026, avoiding the Lake from falling beneath elevation 1020 feet. Lower Basin stakeholders plan to contribute \$100 million each year in the same time frame. Arizona, California, Nevada, and the Bureau of Reclamation are in the process of approving the pledged commitments within this 500+ Plan for 2022 and 2023. All of the contributions in the plan are voluntary and compensated and are in addition to the existing DCP and Tier 1 reductions. Arizona alone has a conservation contribution target of 223,000 AF in the 500+ Plan, comprised of On-River Water Users and CAP Water Users. The annual financial contributions to the 500+ Plan in 2022 and 2023 are being finalized from regional stakeholders such as Arizona Department of Water Resources (ADWR), Central Arizona Water Conservation District (CAWCD), Metropolitan Water District of Southern California (MWD), Southern Nevada Water Authority (SNWA), and US Bureau of Reclamation (USBR). Within Arizona, ADWR and CAWCD have pledged \$40 million and \$20 million, respectively, toward the annual \$100 million needed for contribution compensation. Reduction in CAP deliveries under the 500+ Plan could have increased rates to around 11 AF in 2022, but the CAP Board approved use of \$5 million of property tax revenues to reduce the rate increase to around 6.5 AF.

Mr. Powers asked if the current reservoir levels account for evaporation. Mr. Adams responded that they do not, although it would be around 800,000 AF – 1,000,000 AF lost on average to evaporation when accounting for volumes and deliveries used by the Lower Basin States.

Mr. Biesemeyer requested clarification on how much USBR will be financially contributing toward the 500+ Plan in 2022-2023. Mr. Adams responded that the USBR will be supplying \$100 million over the next two years for contribution compensation.

Mr. Tenney reported that AMWUA will continue to monitor and respond to the situation on the Colorado, as the uncertainty regarding Colorado River water is increasing regionally.

### 4. [Update on CAWCD's Finance, Audit and Power Committee](#)

Mr. Tenney reported on recent information regarding CAWCD's tax and rate setting authority provided by the CAWCD's Finance, Audit and Power Committee. The current Taxing Authority of the CAWCD includes the General Ad Valorem Tax (10¢) and Water Storage Tax (4¢). An external consultant concluded that the CAP's renewable water supply to Central Arizona drives economic

activity and benefits the average taxpayer with minimal tax burden. CAP Staff has identified \$274 million in large unfunded infrastructure upgrades that will require funding within the Extraordinary Cost Reserve through the next decade. Staff has also proposed possible spending needs from the EC, including repayment and recovery. In November, the FAP Committee reviewed their authority for setting rates and capital charges, and AMWUA members presented more specifically about how rates affect specific cities. Since municipalities operate differently from each other and CAP, utilities face complex processes and decisions in response to raising CAP rates and capital charges.

Mr. Tenney reported that the December 2, 2021 CAWCD Board meeting shows AMWUA will need to continue to engage as many members of the CAWCD Board and Staff regarding how CAP costs impact municipal utilities. It is unfortunate that negative sentiment about cities is expressed by Board members that is not challenged and appears to persuade other members. Mr. Tenney said CAWCD lacks an understanding or recognition about the important role of cities. Even after CAP has shown every taxpayer receives a huge economic benefit from CAP, some Board members seem so concerned about the tiny group of taxpayers that do not receive CAP water. Board members fail to realize that even within AMWUA cities, many residents do not receive CAP water yet pay for CAP's costs both through taxes and the cities' water rates. The AMWUA cities are responsible to meet the water needs of all residents, which must be delivered through reliable infrastructure, which is harder to maintain and improve when cities have to address significant cost increases from CAP. Mr. Tenney noted that CAWCD Board members state they represent the taxpayers but yet they are also to represent the cities, their customers, who directly provide water - both CAP water and other water – to the exact same taxpayers.

Mr. Biesemeyer commented that it will be very important to continue engaging the CAWCD Board on the different financial impacts that CAP rates have among the cities they serve.

Ms. Peters commented that the municipal rate setting process, particularly increases, is under a constant review by the City Council debating each projected project and expenses in a Capital Improvement Program (CIP). When CAP rates and capital charges increase, a municipality must increase expenses from its existing CIP, reducing future municipal projects. Ms. Peters questioned how the CAWCD Board and Staff selects possible projects to be funded under the Extraordinary Cost Reserve and expressed frustration that tax revenues used to stabilize the rate increase were reduced from \$10 million to \$5 million. Ms. Peters also commented that there are vulnerable populations that pay both property tax and rising rates that do not even receive CAP water. Mr. Setovich added that since the process remains so complex, there may need to be actionable committees or review processes that allow for transparency of rate setting.

##### 5. [Recommendation for 2022 AMWUA Management Board Chair & Vice Chair](#)

Ms. Marlow reported that the nominating committee for the 2022 AMWUA Management Board is recommending Cape Powers from Peoria as Board Chair, and Terry Piekarcz from Tempe as Board Vice Chair.

Upon a motion made by Mr. Biesemeyer and a second from Ms. Peters, the AMWUA Management Board approved of the nominating committee's recommendation.

### **C. Member Reports**

Mr. Knudson reported that the City of Chandler is continuing to repair an infrastructure break in collaboration with funding from ADOT. The City of Chandler will also be working to adjust rate classes within its utility.

Ms. Peters reported that the City of Phoenix will be implementing new conservation programs due to increased staffing and possible compensation from the 500+ Plan. Ms. Peters also asked Board members to emphasize the importance of advancing DPR rulemaking in Arizona to ADEQ. Mr. Tenney clarified that the Post-2025 Committee had recommended that funds be found for ADEQ to fast-track the rule making process regarding advanced DPR. Members have argued that having rules in place on the State-level allows a utility to pursue DPR more smoothly. Mr. Tenney echoed encouragement that all members should make it known that advancing the DPR rules is important and should be prioritized in discussions with ADEQ. Mr. Biesemeyer added that WateReuse Arizona is continuing dialogue and assistance with ADEQ Staff regarding DPR and he will report back after the next pending meeting.

### **D. Executive Director's Report**

Mr. Tenney reported that AMWUA consultants and staff have been preparing for the 2022 Legislative Session. One of the items on AMWUA's Legislative Agenda was to pursue legislation allowing all municipalities to benefit from WIFA by removing the population requirement. WIFA staff has been helpful in this effort and AMWUA presented a proposal regarding this WIFA legislation to the Vetting Forum 4 Water.

Mr. Aarons reported that the recent Vetting Forum 4 Water has produced valuable discussions surrounding WIFA and the CAP 4¢ tax from stakeholders. ADWR also announced a new bill that was distributed throughout the forum.

Mr. Tenney reported that Chuck Cullom will be leaving his position at CAP to be the Executive Director of the Upper Colorado River Commission.

### **E. Future Agenda Items**

There were no future agenda items to report at this time.

### **F. Adjournment**

Ms. Marlow adjourned the meeting at 11:09 a.m.

**MANAGEMENT BOARD**  
**INFORMATION SUMMARY**  
January 12, 2022

## Colorado River Conditions and Shortage

### ANNUAL PLAN REFERENCE

#### Colorado River Management & Shortage Preparation

Assist, monitor and coordinate on the impacts of shortage declarations on the Colorado River along with the Reconsultation of the 2007 Colorado River Interim Guidelines to ensure our members' interests are forefront.

- Ongoing Coordination – Pursue opportunities to assist and synchronize continuing preparation efforts such as identifying ways to strengthen members' drought (shortage) preparedness plans.
- Risks – Analyze long-term risks of shortages to our members  
*Strategic Plan: Facilitate our Strength in Numbers, Collaborate and Advocate for Solutions, Safeguard Water Supplies, Prepare for Impacts of Drought & Shortage, Minimize Financial Impacts*

### SUMMARY

AMWUA staff will give an update regarding current Colorado River conditions and shortage-related developments including action and discussion taken at the Colorado River Water Users Association recent conference.

### RECOMMENDATION

AMWUA staff is requesting that the AMWUA Management Board ask questions and discuss the Colorado River conditions and shortage.

## MANAGEMENT BOARD

**UPDATED JANUARY 11, 2022**

### INFORMATION SUMMARY

January 12, 2022

## 2022 Legislative Session

### 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 Second Regular Session of the 55<sup>th</sup> Legislature begins on January 10, 2022. Prior to the start of the session, nearly 200 legislative measures have been prefiled. Turnover at the Legislature in the interim period has been significant, and the 2022 Legislative Session will begin with at least 13 new lawmakers.

In preparation for the 2022 Legislative Session, AMWUA and the Agribusiness & Water Council facilitated monthly *Vetting Forum for Water* meetings in October, November, December, and January. The AMWUA 2022 Legislative Agenda was also approved by the Board of Directors on October 28, 2021.

AMWUA staff and Legislative Contractor will provide an overview of relevant legislation that has been introduced to date as well as an outlook on what may take place during the upcoming session.

## **RECOMMENDATION**

It is recommended that the AMWUA Management Board discuss and ask questions regarding legislation impacting AMWUA's members.

Staff requests that the AMWUA Management Board recommend to the AMWUA Board of Directors adoption of the legislative positions presented in this Board packet.

Depending on the introduction of legislation before the January 12, 2022 meeting, the AMWUA Management Board may be asked to provide direction regarding additional legislation to the AMWUA Board of Directors.

## **SUGGESTED MOTION**

*I move that the AMWUA Management Board recommend to the AMWUA Board of Directors that AMWUA adopt the following legislative positions as outlined in the Board packet:*

### **SUPPORT**

**SB 1022:** groundwater pumping; measuring; reporting (Steele)

**SB 1067:** water infrastructure finance authority; cities (Shope)

**SB 1102:** homeowners' associations; solar, water devices (Mendez & Salman)

**HB 2053:** department of environmental quality; continuation (Griffin)

### **MONITOR**

**SB 1023:** well drilling; groundwater basins (Steele)

**HB 2037:** expenditures; authority; water; wastewater (Cook)

**HB 2056:** fifth management period; extension (Griffin and 3 others)

**HB 2057:** water supply development fund; revisions (Griffin & Bowers)

### **NEUTRAL**

**HB 2055 | SB 1147:** Harquahala non-expansion area; groundwater transportation (Griffin | Kerr)

### **OPPOSE**

**HB 2099:** municipalities; membership dues; limit (Cobb & 2 others)



## **Bills Recommended for Action by the AMWUA Management Board**

*\* indicates bills added to this legislative summary on January 11, 2022*

### **SB 1022 groundwater pumping; measuring; reporting (Steele)**

Requires monitoring and annual reporting for nonexempt groundwater wells throughout the state. Water users who irrigate 10 or fewer acres that are not part of a larger farming operation, or water users who pump <10 acre-feet per year for non-irrigation use are exempted from this requirement. AMWUA supported this legislation in the 2020 and 2021 sessions.

*Staff Recommendation: Support*

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### **SB 1023 well drilling; groundwater basins (Steele)**

Establishes a well drilling moratorium that prevents new wells in the Upper San Pedro and Verde Valley groundwater subbasins until the conclusion of the General Stream Adjudication unless a well is a replacement well or does not pump subflow. AMWUA adopted a “Monitor” position on this legislation in the 2020 and 2021 sessions

*Staff Recommendation: Monitor*

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### **SB 1067 water infrastructure finance authority; cities (Shope)**

A.R.S. § 9-571 requires that any city or town who seeks to enter into a repayment agreement with WIFA must seek voter approval via election if the population of the municipality is greater than 150,000 persons. SB 1067 would remove this substantial disincentive which acts as a barrier to the utilization of WIFA funds. This proposal has been met with positive feedback from WIFA staff as well as the broader water community.

*AMWUA Position: Support*

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### **\*SB 1102 homeowners' associations; solar, water devices (Mendez & Salman)**

Homeowners Associations cannot prohibit the installation of a water saving device or indoor or outdoor water conservation practice. AMWUA supported this legislation in 2019.

*Staff Recommendation: Support*

**[HB 2037](#) expenditures; authority; water; wastewater (Cook)**

This bill would expand the authority of a County Board of Supervisors to appropriate and spend funds for participation in water reuse projects, regional recharge projects, and to purchase water rights to “demonstrate an assured water supply.” HB 2037 also expands a Board of Supervisors’ authority to engage in joint recharge projects with private water companies, in addition to political subdivisions. AMWUA staff are currently working to engage with Rep. Cook and Pinal County proponents to understand the implications of this expansion to county authority, and to identify if amendments may be necessary.

*Staff Recommendation: Monitor*

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**\*[HB 2053](#) department of environmental quality; continuation (Griffin)**

Extends the sunset date for the Arizona Department of Environmental Quality for eight years, through 2030.

*Staff Recommendation: Support*

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**\*[HB 2055](#) | \*[SB 1147](#) Harquahala non-expansion area; groundwater transportation (H: Griffin | S: Kerr)**

This bill adds a provision to statute allowing private water companies to withdraw groundwater from purchased land in the Harquahala irrigation non-expansion area (INA) and transport that water to an initial AMA. Currently, only political subdivisions of the state can purchase land and transfer the Harquahala groundwater to AMAs. This bill is similar to a measure introduced in 2019 (HB 2609) although previously problematic elements relating to the depth of allowable groundwater withdrawal have been removed.

AMWUA worked with the main proponent, EPCOR, to amend the proposal so that the definition of “private water company” is clearly limited to private utilities regulated by the Arizona Corporation Commission, excluding a broader interpretation of the term that could include entities such as investment firms and developers.

*Staff Recommendation: Neutral*

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**[HB 2056](#) fifth management period; extension (Griffin and 3 others)**

This bill would extend the 5th Management Period by ten years, lengthening the Period from to 2025 to 2035. Extending the 5th Management Period by a decade does not alter the end date of the 5MP regulations, as the conservation requirements continue to remain in effect indefinitely, whether the Period ends in 2025 or 2035.

ADWR has stated that the Department is currently working with the Sponsor to amend HB 2056, describing the bill as a “placeholder.” The Department’s intention remains to pursue legislative authority to establish a Sixth Management Period.

AMWUA has voiced support at the Governor’s Water Council for continuing to update the regulatory framework, noting that there is a need for the AMA groundwater management framework to evolve. Agricultural and homebuilder representatives have voiced opposition to additional Management Periods. Staff recommend monitoring this legislation until it may be amended, and then take a position based on if the amendment is consistent with ADWR’s intention.

*Staff Recommendation: Monitor*

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**\*[HB 2057](#) water supply development fund; revisions (Griffin & Bowers)**

The Water Supply Development Revolving (WSDR) fund was established in 2007 and was intended to assist rural water providers acquire water supplies through loans and grants. The statutory criteria associated with WSDR Fund were substantively modified in the 2021 Legislative Session by HB 2388 that expanded applicant eligibility, and finally actually appropriated monies, \$46 million, to the Fund.

This bill, HB 2057, makes technical corrections, deletes references to the defunct WSDR Fund Committee, and makes conforming changes to last year’s legislation that expanded the maximum grant limit to \$250,000.

*Staff Recommendation: Monitor*

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**\*[HB 2099](#) municipalities; membership dues; limit (Cobb & 2 others)**

This bill applies to all organizations whose majority of paid members are cities or towns. HB 2099 establishes a “per capita” metric that divides a city’s membership dues by its total population. No city may pay membership dues to an organization if its “per capita” ratio is greater than the ratio of the largest city within the same organization.

This formula is incompatible with AMWUA’s calculation of membership assessments which are not solely based on population. This legislation would impair the ability of municipalities to establish and participate in organizations that do not follow this narrow structure for establishing membership dues.

*Staff Recommendation: Oppose*

## Potential Legislative Proposals for Management Board Discussion

### CAWCD Water Storage Tax Extension

The Central Arizona Water Conservation District (CAWCD) Board has agreed to introduce legislation in the 2022 session to extend the District's Water Storage Tax levy authority through the year 2044. CAWCD staff have stated that current uncertainty surrounding Colorado River conditions necessitates the continued levy of the Water Storage Tax to provide CAWCD with financial resources to respond. CAWCD staff believe that the current makeup of the legislature is preferable for this proposal in the face of significant turnover in 2023. CAWCD seeks to limit the legislation only to an extension of the tax levy, with no modifications to the spending authority of the tax revenues.

At the November 4, 2021 CAWCD Board meeting, AMWUA requested more specificity about how the water storage tax would be used and that it should be clarified that the tax can be used for recovery purposes. The Water Storage Tax funded the Arizona Water Banking Authority's storage of excess Colorado River to firm M&I supplies reduced by shortage. The same tax should be authorized to fund the recovery of that stored water.

Upon introduction of a bill, AMWUA Staff recommends adoption of the following position:

*AMWUA adopt a "Monitor" position on the proposed legislation but willing to move to "Support" if the statutory amendments include language clarifying that the Water Storage Tax can be used for the purposes of recovery.*

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### Buckeye Irrigation District Groundwater Service to M&I Entities

This legislation would allow the Buckeye Water Conservation & Drainage District (BWCD) to serve groundwater to municipal and industrial water users up to the volume approved in its Drainage Water Withdrawal Permit.

BWCD has described this legislation as an effort to help nearby cities with an additional water supply as the groundwater would not carry a replenishment obligation because it originates from the Buckeye Waterlogged Area. It is unclear what local cities or users would seek to receive groundwater service from BWCD under this new statutory authority.

AMWUA is currently engaging with BWCD representatives to better understand the intent and consequences of this legislation. AMWUA staff and member cities have significant concerns regarding the ramifications of this proposal, particularly the potential for future development to rely on groundwater in the waterlogged area that is temporary in nature, as well as the precedence for irrigation districts to serve groundwater outside of their service area.

## **Pinal AMA Stakeholder Group Legislative Proposals**

Since 2019, a group of stakeholders from the Pinal Active Management Area (AMA) have met to discuss policy approaches in response to regulatory constraints arising from regional modeling that showed an overwhelming shortfall of physically available groundwater for purposes of demonstrating an Assured Water Supply. On November 1, 2021, the Pinal AMA Stakeholder Group unveiled a series of five legislative concepts that the Group would potentially pursue in the 2022 session:

- Modifying the Definition of “Service Area” for Assured Water Supply Groundwater Modeling Purposes
- WaterBUD Repeal
- “Farm to Muni” Conversion of Irrigation Grandfathered Rights to a Physically Available Assured Water Supply
- Modified Accounting for Commingled Water Supplies
- Expanding the Area of Impact of Recovery for a Groundwater Savings Facility

AMWUA staff and member cities have significant concerns that a number of these proposals erode requirements of the Assured Water Supply Program and perpetuate continued growth on unsustainable groundwater supplies. Staff will continue to monitor if any of these proposals are introduced as formal legislation.