



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

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

### **MEETING NOTICE AND AGENDA**

***Wednesday, March 13, 2024 – 10:00 a.m.***

**This meeting will be held as a Hybrid meeting.  
Attendance in person is welcomed; Others may join via Zoom.**

**Access this [Link](#) to join via Zoom. Meeting ID: 845 3218 4774**  
(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 February 14, 2024, Meeting
2. Next Meeting Date: April 10, 2024, 10:00 a.m.
3. 2024 Legislative Session
4. Colorado River Negotiations
5. Overview of Alternative Path to Designation
6. Printing of Updated Landscape Plants Publication

#### **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**

3003 North Central Avenue, Suite 1550, Phoenix, Arizona 85012 • (602) 248-8482 • [amwua.org](http://amwua.org)

## MANAGEMENT BOARD

### MEETING MINUTES

February 14, 2024

HYBRID MEETING

#### MEMBERS PRESENT

Ron Serio, Glendale, Chair  
Craig Caggiano for Tara Ford, Tempe, Vice Chair  
Kirk Beaty, Avondale  
John Knudson, Chandler  
Jessica Marlow, Gilbert  
Barbara Chappell, Goodyear  
Chris Hassert, Mesa  
David Burks, Peoria  
Cynthia Campbell for Troy Hayes, Phoenix  
Brian Biesemeyer, Scottsdale

#### OTHERS PRESENT

Gretchen Baumgardner, Scottsdale	Jake Golden, Phoenix	Richard Parker, Journalism Student
Rebecca Bernat, AWBA	Laura Hixson, Gilbert	Tina Sleeper, Tempe
Paul Bergelin, AMWUA	Maegan Johnson, Phoenix	Ginger Spencer, Phoenix
Jill Brumand, Scottsdale	Simone Kjolsrud, Chandler	Martin Stiles, CAP
Harry Cooper, AMWUA	Kathy MacDonald, Mesa	Warren Tenney, AMWUA
Ray Diaz, Goodyear	Craig McGinnis, SRP	Sheri Trapp, AMWUA
Brian Draper, Mesa	Mike Milby, CliftonAllenLarson	Theresa Ulmer, Ulmer Consulting
Kathy Ferris, AMWUA	Brad Moore, AMWUA	
Brett Fleck, Peoria	Jacob Perez Laurent, AMWUA	
Sherry Garcia, AMWUA		

#### A. Call to Order

Mr. Serio 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 January 10, 2024, Meeting

Upon a motion made by Mr. Biesemeyer and a second by Mr. Burks the AMWUA Management Board unanimously approved of the January 10, 2024 meeting minutes.

2. Next Meeting Date: Wednesday, March 13, 2024, at 10:00 a.m.

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Arizona Municipal Water Users Association

### 3. 2024 Legislative Session

Mr. Tenney reported that more than ninety water bills have been introduced. AMWUA staff have been meeting weekly with the Intergovs to discuss water legislation. AMWUA's primary focus is on bills in response to the Phoenix AMA Groundwater model. Mr. Tenney reported that there is pressure on the Governor's office to get development started outside of designated providers. It has been challenging as AMWUA advocates about the need of water security for AMWUA cities who have made investments to have assured water supplies when Legislators are being confronted about the economy and development. There are a few bills trying to move forward with development in a more favorable way. Mr. Tenney reported this is the last week for bills to be heard in the chamber of origin. Mr. Tenney reported that AMWUA is proposing to remain neutral on bills addressing rural management areas because of tension between Legislature and the Governor's Office on how to address rural groundwater management. It is important to address rural water issues since there is a lot of focus on how Arizona is handling water issues in the state.

Mr. Bergelin reviewed bills that would have the most impact upon AMWUA members and overall water management. He then gave a high-level overview of the remaining bills with AMWUA's recommending position.

Regarding HB 2487, Mr. Biesemeyer asked if there is any provision on how long a development is considered build to rent? Mr. Bergelin stated this is a primary concern regarding build-to-rent development. What happens when the owner decides to sell the property?

Regarding HB 2860, Mr. Knudson asked if there is additional money that would be appropriated to the existing program? Mr. Bergelin stated that it would be the same, but the new program would be a separate amount of state transaction tax money.

Mr. Burks asked if there are bills introduced this session that were previously introduced. Mr. Bergelin responded, yes, there are bills repeated from previous sessions.

Regarding HB 2127, Ms. Campbell stated the legislation allows a developer to claim the projected effluent from the subdivision to justify the issuance of a Certificate for that development. What happens if the municipal provider wants to recharge the effluent to earn long term storage credits, how would the effluent count as both? Mr. Bergelin said that this is an on-going question that should be raised in subsequent committee meetings.

Regarding HB 2647 / SB 1172, Mr. Knudson asked why are we not just opposing rather than oppose - seeking to amend? . Mr. Tenney responded that this is one of the bills that the Governor's office is reviewing to see if it can become acceptable. Mr. Tenney reported that there is a consensus that more development on agriculture land should be encouraged because it would reduce the amount of groundwater pumping. However, the model has already shown that agriculture land is part of the unmet demand and if you transfer it and create it into urban land, it would be less pumping, and you would reach the bottom amount of groundwater. The Governor's Office and the proponents continue to have discussions. However, we are concerned with how this legislation is written as of now, so we believe we should oppose and then see if negotiations bring an acceptable compromise that we could then revisit our position.

Mr. Kundson stated that he believes there is a methodology to retire agriculture lands by using extinguishment credits. Mr. Knudson stated some utilities have purchased extinguishment credits for various reasons. What is an extinguishment credit and how is it different than what they are trying to do? Mr. Bergelin reported that an extinguishment credit allows someone who is set to retire a grandfather right could transfer to a certificate or a designation of assured water supply. The amount varies and depends on each active management area. The sooner you retire grandfather rights, the more extinguished credits you would have. Ms. Chappell further added that if they don't get extinguished or pledged, they go away once the land is developed. Goodyear

doesn't purchase them. We require that they be extinguished and pledged and they are only good through 2025. There is no value to them, and you get very few credits for them. She added that this bill is troublesome because it assumes that this is a perpetual right that would allow them to use forever and never go away. West Valley cities who have more agriculture lands are hoping to change to opposition. Mr. Bergelin stated that SRP and Pinal County have concerns regarding this bill as well.

Upon a motion made by Ms. Chappell and a second from Ms. Marlow, the AMWUA Management Board unanimously approved the recommended positions to the AMWUA Board of Directors, as presented.

#### **SUPPORT**

**HB 2708** WIFA; water augmentation fund (Villegas)  
**SB 1246** reporting; groundwater pumping; measuring (Sundareshan)  
**SB 1326** subdivisions; assured water supply; lots (Sundareshan)  
**SB 1327** assured water supply; building permits (Sundareshan)  
**SB 1606** residential lease communities; building permits (Wadsack)  
**SB 1650** subdivisions; assured water supply; lots (Bennett)

#### **NEUTRAL or MONITOR**

**HB 2487** residential lease community; Prescott AMA (Bliss)  
**HB 2628** department of environmental quality; omnibus (Griffin)  
**HB 2842** basin-fill aquifers; groundwater; correlative rights  
**HB 2857** rural groundwater management (Mathis)  
**HB 2860** water conservation infrastructure; reimbursement (Livingston)  
**HB 2894** rainwater harvesting; appropriation (Hernandez M)  
**SB 1108** subsequent active management area; designation (Sundareshan)  
**SB 1121** basin management areas; appropriation (Kerr)  
**SB 1241** tax credit; gray water systems (Shope)  
**SB 1245** drinking water standards; pollutants (Sundareshan)  
**SB 1264** Colorado River; pumping notice; objection (Borrelli)  
**SB 1325** aquifer management; conservation; priority (Sundareshan)  
**SB 1328** subsequent irrigation; non-expansion areas; procedures (Sundareshan)  
**SB 1329** watershed health; use; survey (Sundareshan)  
**SB 1520** appropriation; Page water infrastructure project (Hatathlie)  
**SB 1551** rural management areas (Mende)

#### **OPPOSE**

**SB 1242** ADWR; application; review; time frames (Shope)  
**SB 1243** groundwater sales; online exchange (Wadsack)  
**SB 1289** DWR; hydrology reports (Hoffman)  
**SB 1339** regulatory costs; rulemaking; legislative ratification (Carroll)

AMWUA is recommending a change of position from **MONITOR TO OPPOSE-SEEK TO AMEND** regarding the following bills:

HB 2647 physical availability credits; water supply (Smith)  
SB 1172 physical availability credits; water supply (Shope)

Ms. Ulmer commented that the Board can take a position of oppose and if the bill is amended, the AMWUA Management Board and Board of Directors can revisit and change the position at a later date.

Upon a motion made by Mr. Knudson and a second from Ms. Chappell, the AMWUA Management Board unanimously approved the recommended change of oppose regarding HB 2647 / SB 1172 to the AMWUA Board of Directors.

Mr. Tenney applauded Mr. Bergelin and Mr. Moore for their efforts in tracking the bills. Mr. Tenney also thanked Mr. Aarons and Ms. Ulmer for the work they are doing at the Capitol.

Mr. Knudson added that he is concerned about SB 1181 and proposed amendments. It doesn't appear Queen Creek has a plan for recharging and this is concerning. Bringing surface water into Queen Creek to treat is concerning when these utilities don't have any intention of reducing groundwater pumping in their local areas. Mr. Tenney reported that this is understandable, and this is why they would have to show to ADWR that they meet all of the requirements for a designation.

#### 4. Fiscal Year 2024 Quarterly Financial Statements – Second Quarter

Mr. Tenney reported that the AMWUA Statement of Revenue and Expenses for the period of July 1, 2023 through December 31, 2023 and the Balance Sheet dated December 31, 2023 are presented for your information. AMWUA's year-to-date expenses are \$8,965 under the year-to-date budget.

Upon a motion made by Mr. Burks and a second by Mr. Biesemeyer, the AMWUA Management Board unanimously approved a recommendation to the AMWUA Board of Directors to accept the Fiscal Year 2024 Quarterly Financial Statements – Second Quarter as presented.

### C. Member Reports

Ms. Marlow reported that the Town of Gilbert adopted new water rates last week.

### D. Executive Director's Report

Mr. Tenney reported that recent winter storms have brought welcome precipitation to the Salt and Verde watershed as well as to the Colorado River Basin. The total SRP system is currently 83% full compared to 79% full a year ago at this time. The Upper Colorado River Basin snowpack is at 99% of median right now. It will take a few more months to see how much runoff that produces.

Mr. Tenney reported that AMWUA has received a copy of the draft rules that ADWR has put together for the Alternative Path to Designation or Alternative Designation of Assured Water Supply (ADAWS). AMWUA is reviewing them with the WRAG and will look further at them at next week's WRAG meeting. AMWUA intends to provide feedback to ADWR. It is not clear what the process or timeline will be in the formal rulemaking process, but ADWR had previously said they would like to have the rules completed by the end of summer.

Mr. Tenney reported that AMWUA received a request to host a water roundtable discussion with Congressman Gallego, who would like to hear from Valley water providers about water challenges and ways that the federal government can assist. The Congressman's office is inviting the mayor or AMWUA Board Member of each respective city to attend. Water Services Directors are also welcome to attend to provide your own unique perspectives on water. AMWUA would like to see a strong representation from AMWUA cities since other Valley water users will also be attending.

### E. Future Agenda Items

No future agenda items were requested.

### F. Adjournment

Mr. Serio adjourned the meeting at 11:13 a.m.

## AMWUA MANAGEMENT BOARD

### INFORMATION SUMMARY

March 13, 2024

## 2024 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 56<sup>th</sup> Legislature began January 8, 2024. This report has been updated as of March 7, 2024, when 1,756 measures have been introduced of which 94 relate to water.

At its February 22, 2024 meeting, the AMWUA Board adopted or altered positions on 28 bills. This legislative report includes first a summary of 24 key water bills that AMWUA is most focusing its efforts on. The report then summarizes and provides updates regarding other legislation that AMWUA is tracking.

AMWUA staff and Lobbyist will provide an overview about the most relevant legislation. Also, AMWUA staff will give an update about key water legislation that is moving forward.

As bills have been moving through the chambers, some have been amended. These amendments have improved by various degrees problematic bills as well as made some worse. AMWUA staff is recommending that our position for SB 1081 (exemption area, assured water supply) and SB 1181 (groundwater replenishment; members lands; areas) be changed from monitor to neutral based on amendments that have addressed most of the initial concerns with the original language.

The terms “neutral” and “monitor” apply to bills that we are watching. “Neutral” infers that we do not see the bill having an impact on our members but do not need to or want to take a position of support or oppose. “Monitor” infers that we are watching the bill closely, further analyzing, and may take a position of support, oppose, or neutral at a later date.

## RECOMMENDATION

It is recommended that the AMWUA Management Board discuss and ask questions regarding legislation impacting AMWUA's members and recommend a position of neutral or SB 1081 and SB 1181. The Board packet includes a list of bills that the AMWUA Board has taken action on.

## SUGGESTED MOTION

*I move that the AMWUA Management Board make the following recommendations to the AMWUA Board of Directors as outlined in the Board packet:*

**SB 1081** exemption area; assured water supply (Kerr)----- *Neutral*

**SB 1181** groundwater replenishment; member lands; areas (Petersen) ----- *Neutral*

## Key water bills being tracking –

### HB 2008 commercial; industrial; conservation requirements; rules (Griffin)

#### *Position – Support*

As introduced, HB 2008 required the Arizona Department of Water Resources (ADWR) to adopt rules by 2025 for commercial and industrial water users within and outside of the service areas of designated providers that provide for greater water efficiency, conservation, and on-site water reuse and recycling. It prohibited these rules from requiring a commercial or industrial user to obtain a Certificate of Assured Water Supply, enroll as a Member Land, or otherwise meet a replenishment obligation. We were concerned that targeting industrial and commercial users within a designated provider's service area would be redundant with ADWR's existing industrial conservation requirements in the 5<sup>th</sup> Management Plan, as well as the existing conservation programs created by municipal water providers to address their own specific commercial and industrial water users.

However, a recent amendment to HB 2008 improved it considerably. Under the amended bill, ADWR would modify the 4<sup>th</sup> and 5<sup>th</sup> Management Plans to include conservation requirements for industrial users outside of a designated provider's service area, not currently subject to any management plan's industrial conservation requirements, and that use more than 250 acre-feet of water per year. These conservation requirements would include on-site water reuse, recycling, and efficiency measures. Taken together, these changes help close a hole in the management plans' industrial conservation programs. For those reasons, the AMWUA Board approved changing our position to support.

*Last Action Taken – This bill passed out of the House on a 31-27-1-0-1 vote on February 27<sup>th</sup>.*

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### HB 2017 assured water supply; commingling (Griffin)

#### *Position – Oppose*

This bill would direct the Arizona Department of Water Resources (ADWR) to consider any type of waters that are commingled together when making an Assured Water Supply (AWS) determination.

Most water providers utilize a combination of water supplies in their systems, such as groundwater, Central Arizona Project water, and Salt River Project water. Water providers that have Designations of Assured Water Supply like the AMWUA cities have their water supplies reviewed every 10-15 years by the ADWR to determine compliance with AWS criteria. This is why subdivisions that receive service from these designated providers do not need to obtain Certificates of Assured Water Supply (CAWS). Water providers that lack designations must have their supplies regularly reviewed by ADWR when it is evaluating whether to issue a CAWS for a proposed development. Since the Phoenix AMA groundwater model projected that groundwater is overallocated over the next 100 years, ADWR has refused to issue any CAWS for proposed developments served by undesignated providers that have groundwater commingled in their distribution system. There has been an effort to allow CAWS to be issued for developments served by undesignated providers if these providers obtain renewable water supplies for these developments. However, the key issue that must be addressed is limiting the amount of groundwater that these undesignated water providers pump. Absent any limitation, a provider could



simply shift around renewable supplies in its portfolio to serve a CAWS while pumping greater volumes of groundwater, which is inimical to the AWS Program's goal.

This bill received an amendment on January 11, 2024 that added a provision prohibiting ADWR from requiring a subdivider to obtain a water supply that is more than 100% of the water needed to meet the subdivider's purpose when applying for a CAWS or commitment of water service. There are concerns that this amendment could make this bill conflict with ADWR's upcoming Alternative Pathway to Designation rules which led us to change our recommended position to oppose.

*Last Action Taken – This amended bill passed out of the House with a 31-27-0-0-2 vote on January 29<sup>th</sup> and passed Senate NREW with a 4-3 vote on February 29<sup>th</sup>.*

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### **HB 2020 long-term storage; stormwater; rainwater; rules (Griffin)**

*Position – Oppose*

HB 2020 would allow someone to earn long-term storage credits (LTSCs) by building infrastructure—including roadways and sidewalks—that leads to increased natural, incidental, or artificial recharge of groundwater in an active management area. The Arizona Department of Water Resources would be required to develop rules by 2025 that detail the criteria for this infrastructure and formula for determining how much increased recharge the infrastructure will create over its useful life when determining the amount of LTSCs earned.

While we support efforts to utilize stormwater runoff and floodwaters more efficiently, this bill's approach is poorly defined. It also takes a big leap from the intention and purpose of the Underground Storage Act. As currently written, anyone could generate LTSCs using infrastructure for which there may not be a clear method of determining how much runoff is actually stored underground. Additionally, there may be water quality issues associated with storm water runoff which would undermine the quality of underlying aquifer and could consequently raise public health concerns for rural communities that rely on wells. Plus, there's questions about how it may impact surface water rights.

*Last Action Taken – This bill passed out of the House with a 31-27-1-0-1 vote on February 27<sup>th</sup>.*

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### **HB 2025 residential lease community; water; requirements (Griffin)**

*Position – Oppose*

This bill attempts to implement the Governor's Water Policy Council's recommendation to fully incorporate build-to-rent developments (which are called "residential lease communities" in the bill) into the Assured Water Supply Program. It would require applications for building permits for six or more detached single-family within a residential lease community in the Prescott, Phoenix, Pinal, Tucson, and Santa Cruz AMAs to either obtain water service from the water provider with a Designation of Assured Water Supply or be located on a parcel of land that already qualifies as Central Arizona Groundwater Replenishment District (CAGRDR) Member Lands. The applicant must also pay applicable fees to CAGRDR. This requirement would not apply to residential lease communities that are existing or that have applied for or received zoning changes before September 30, 2024.

There are concerns that this bill is not consistent with the Governor's Water Policy Council's recommendation and could decouple CAGRD's replenishment obligation from the AWS Program and create operational challenges for CAGRD.

*Last Action Taken – This bill passed out of the House with a 31-27-1-0-1 vote on February 27<sup>th</sup>.*

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#### **[HB 2026](#) residential lease community; water; certificate (Griffin)**

##### *Position – Support*

This bill would implement the Governor's Water Policy Council's recommendation to fully incorporate build-to-rent developments into the Assured Water Supply (AWS) Program. Under the Council's recommendation, these developments would be considered the same as a subdivision for the purposes of the AWS Program. The Council defined these developments as "six or more detached residential dwellings on one or more lots, parcels, or fractional interests...offered for the purpose of lease without regard to lease term."

HB 2026 would require applications for building permits for six or more detached single-family residences in the Phoenix, Pinal, and Tucson AMAs to either obtain a Certificate of Assured Water Supply (CAWS) or water service from the water provider with a Designation of Assured Water Supply (DAWS). The applicant must also pay applicable fees to the Central Arizona Groundwater Replenishment District (CAGRD). This requirement would apply regardless of the proposed lease term for these single-family residences. The bill would be limited to applications submitted after September 30, 2023.

*Last Action Taken – This bill passed out of the House with a 49-8-2-0-1 vote on February 22<sup>nd</sup>.*

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#### **[HB 2029](#) groundwater model; unpledged effluent (Griffin)**

##### *Position – Oppose*

This bill would require the Arizona Department of Water Resources (ADWR), when making a groundwater model to help evaluate Assured Water Supply determinations, to assume that any effluent created within the active management area (AMA) and not pledged to a specific user will be used to replace groundwater demand. This bill is intended to address a criticism that the Phoenix AMA groundwater model, which projected a 4% overallocation of groundwater over the next 100 years, did not fully consider how future effluent will be used.

The Phoenix AMA model incorporates effluent uses in two ways. First, the model includes existing effluent uses (as of 2021) as reductions in groundwater pumping. It also includes effluent discharges, such as those from the 91<sup>st</sup> Avenue Wastewater Treatment Plant. Second, the model considers future effluent usage if that effluent is included in an Assured Water Supply (AWS) determination. The model does not account for future effluent that is stored and recovered outside of the area of impact, discharged, or that is committed by contract to third party users.

However, the House adopted a floor amendment that revised this bill considerably although problems remain. HB 2029 now requires any groundwater modeling for AWS applications to include effluent that will be generated from a proposed subdivision if the applicant obtains a commitment of wastewater service from a water or wastewater provider and the applicant shows that the infrastructure to reuse this effluent will be funded by the applicant or the water or wastewater provider. This language would invite ADWR to speculate about future effluent created from a proposed subdivision when modeling physical availability of groundwater. Doing so would undermine the strength of these models—that they deal in concrete realities and do not speculate about the future. Moreover, the provisions seem focused on requiring this future effluent to be used for the benefit of a proposed subdivision, presumably to offset groundwater pumping. However, there are no provisions that require the certificate applicant to contract with a water provider for effluent for 100 years or that specify what would happen if such an arrangement fell through. More broadly, it is unclear how these requirements for modeling effluent could apply to a designation applicant.

When voted on third read, this bill failed to pass. It could possibly be brought back for another vote.

*Last Action Taken – This bill failed to pass out of the House with a 29-30-0-0-1 vote on February 29<sup>th</sup>.*

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#### **[HB 2030](#) cities; towns; water service; audit (Griffin)**

*Position – Oppose*

This bill would require Phoenix, Tucson, Mesa, Chandler, Gilbert, Glendale, and Scottsdale (cities with more than 240,000 in population) to hire an independent auditor to conduct a full rate audit and cost-of-service study that focuses on various components of their water and sewer services. The House Natural Resources, Energy & Water Committee adopted an amendment that expanded the list of required audit topics to include revenues from commercial and industrial customers, recordkeeping costs, and utility revenue used for non-utility purposes.

Municipal water providers would be required to undergo a duplicate governmental review for their finances when the information requested is already publicly available and subject to transparent reporting requirements. We are additionally concerned that this audit, which would be covered by each municipal provider's rate payers, is an unfunded mandate for the state's largest municipal water providers.

*Last Action Taken – HB 2030 passed out of the House with a 31-28-0-0-1 vote on February, 28<sup>th</sup>.*

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#### **[HB 2055](#) underground water storage; permitting (Dunn)**

*Position – Support*

HB 2055 would alter the internal deadlines ADWR must comply with when reviewing an underground water storage application. It would lengthen the timeframe within which ADWR is required to conduct its due diligence review applications for underground water storage permits from within 100 days to within 180 days. However, this bill would also shorten the timeframe within which ADWR is required to issue a decision on the permit application from within 6 months of ADWR publishing a public notice of

the application to within 100 days of the public notice. Taken together, these changes should not alter the overall deadline for ADWR making a determination on an application.

*Last Action Taken – HB 2055 passed out of the House with a 56-1-2-0-1 vote on February 20<sup>th</sup>. It has been assigned to the Senate NREW Committee.*

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#### **HB 2062 assured water supply; certificate; model (Griffin)**

##### *Position – Oppose*

This bill would require ADWR to review undecided or denied applications for Certificates of Assured Water Supply (CAWS) if the applicant requests such a review. Only applications filed within the Phoenix AMA and between January 26, 2021 and May 31, 2023 are eligible for review. ADWR must notify all eligible applicants of the possible review within five days of the effective date of this bill, and the review must be requested within 90 days of the effective date of this bill. ADWR must issue a determination for these reviews within 15 days and must only use the 2006-2009 Salt River Valley Regional Model when conducting these reviews. The committee adopted an amendment that directed ADWR to use the 2006 Lower Hassayampa Sub-basin Model when appropriate.

This bill appears to be an attempt to free up water that is held by certificates that were either denied or had their development put on hold due to the release of the Phoenix AMA Groundwater Model. The requirement for ADWR to use the 2006-2009 Salt River Valley Regional Model for these reviews, and not the more current and accurate Phoenix AMA Groundwater Model is concerning and is certainly not in line with scientific best practices.

*Last Action Taken – HB 2062 passed out of the House with a 31-28-0-0-1 vote on February 28<sup>th</sup>.*

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#### **HB 2100 administrative completeness review; licensing (Griffin)**

##### *Position – Oppose*

This bill requires an agency to make available a comprehensive list of items needed for an application to be deemed administratively complete. This bill also states that an agency may issue a notice of deficiencies, but that even if they do so, the application is still considered administratively complete (this portion of the bill seems to conflict with the sentence that is directly before it, and which has not been removed). This bill also states that an agency cannot issue a final decision on an application that is based on items not in the comprehensive list described in the first sentence.

Crucially, HB 2100 prohibits an agency from making a final decision on an application based on the findings or conclusions of a document not included in the application unless the document or report was “subject to public inspection and the applicant had the opportunity to challenge the document or report and its findings before submitting the application.” Although the bill refers to an “agency” in general terms, our concern is that the “document or report” could include those related to the Phoenix AMA groundwater model. In effect, this requirement would create a backdoor way for implementing a process to challenge the findings of the Phoenix AMA groundwater model similar to HB 2019

(groundwater model; public inspection; challenge). This challenge process could redirect ADWR's resources away from more pressing matters such as processing recovery well permit applications, accounting for long-term storage credits, or assisting with the general stream adjudications.

*Last Action Taken – This bill passed out of Senate GOV with a 4-3-1-0 vote on February 28<sup>th</sup>.*

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#### **[HB 2127](#) assured water supply certificate; effluent (Griffin)**

##### *Position – Oppose*

As amended, HB 2127 would allow a Certificate of Assured Water Supply (CAWS) in the Phoenix, Pinal, and Tucson Santa Cruz AMAs to include effluent that is projected to be produced for the purposes of demonstrating its legal and physical availability if the effluent is used to meet the proposed subdivision's water demands, recharged in the same sub-basin as the subdivision, or some combination thereof. ADWR has raised concerns that these provisions are vaguely written and could create a backdoor way of enabling more pumping on groundwater.

*Last Action Taken – This bill passed out of the House with a 31-27-1-0-1 vote on February 27<sup>th</sup>.*

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#### **[HB 2186](#) remedial groundwater incentive; brackish groundwater (Kolodin)**

##### *Position – Oppose*

This bill would amend the definition of a hazardous substance under A.R.S. Title 49 to include groundwater with a total dissolved solids (TDS) content between 1,000 and 10,000 milligrams per liter. This bill also adds desalination of such brackish groundwater as a remedial action to be taken by relevant parties that wish to use such groundwater. This bill also makes conforming changes to include brackish groundwater as a hazardous substance that may be included in a remediation plan. This bill also states that this brackish (remedial) groundwater will be considered consistent with AMA management goals when applying for an AWS Certificate or Designation, without ADWR approval, if the applicant meets metering and reporting requirements for said groundwater. ADWR is required to create rules outlining how it will determine compliance with management goals for remedial groundwater. Applicants who wish to use such a supply in their AWS determination must provide ADWR with notice at least 120 days of notice. Lastly, this bill states that "remedial groundwater" will be metered and reported separately from "groundwater" when reporting to ADWR.

TDS is not, on its own, considered a health hazard by environmental regulatory agencies. On its own, TDS is an aesthetic issue that can lead to buildup in pipes and on taps, and certainly does not warrant elevation to the level of a hazardous substance that require remediation. An exceptionally high TDS level can indicate the presence of harmful ions such as copper and lead. However, these ions and TDS itself are already regulated by ADEQ. Requiring such a commonplace water quality measurement as TDS to be handled through a remediation plan would put an unnecessary burden on municipal water providers that are already able to thoroughly treat water for TDS and related ions.

*Last Action Taken – HB 2186 passed out of the House with a 31-28-0-0-1 vote on February 22<sup>nd</sup>.*

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## **HB 2200 groundwater transportation; Harquahala non-expansion area (Dunn)**

### *Position – Support*

This bill would allow a public service corporation that holds a Certificate of Convenience and Necessity in an initial AMA to transport groundwater away from the Harquahala INA for use within an initial AMA. This bill would also require ADWR to adopt rules to govern such transportation, as well as transportation by the state or political subdivisions of the state. This bill would require such transported groundwater to be used by the transporting entity within five years to serve its own customers and would require a transporting public service corporation to recoup fees for transport from customers of its own distribution system.

A floor amendment was adopted that requires annual monitoring and reporting of any groundwater transported from the Harquahala INA, including the end use of that groundwater. The entity transporting the groundwater must also comply with the Assured Water Supply requirements relating to a hydrologic study.

This bill was introduced as an effort to allow EPCOR and other private water companies to transport groundwater from the Harquahala INA, something that these entities have previously pursued. (Currently, only political subdivisions of the State—such as cities and towns—that own legally irrigable land can withdraw and transport groundwater from this INA.) This bill is especially relevant this session because of the need to secure new water supplies that was created by the Governor’s Water Policy Council’s recommendation to create an Alternative Pathway to Designation.

*Last Action Taken – This bill passed out of the House with a 38-18-3-0-1 vote on February 26<sup>th</sup>.*

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## **HB 2201 Harquahala non-expansion area; groundwater transportation (Dunn)**

### *Position - Support*

This bill would allow a public service corporation that holds a Certificate of Convenience and Necessity in an initial AMA to transport groundwater away from the Harquahala INA for use within an initial AMA or within La Paz County. This bill would also require ADWR to adopt rules to govern such transportation, as well as transportation by the state or political subdivisions of the state. This bill would require such transported groundwater to be used by the transporting entity within five years to serve its own customers and would require a transporting public service corporation to recoup fees for transport from customers of its own distribution system.

Similar to HB 2200, a floor amendment was adopted that requires annual monitoring and reporting of any groundwater transported from the Harquahala INA, including the end use of that groundwater. The entity transporting the groundwater must also comply with the Assured Water Supply requirements relating to a hydrologic study.

This bill is serving the same purpose as HB 2200, except for allowing the transported groundwater to be used in La Paz County in addition to initial AMAs. La Paz County interests have been seeking to obtain transported groundwater from Harquahala INA.

*Last Action Taken – This bill passed out of the House with a 33-23-3-0-1 vote on February 26<sup>th</sup>.*

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**[HB 2366](#) physical availability; review; designated providers (Griffin)**

*Position – Oppose*

HB 2366 attempts to endanger the designations of all designated municipal providers in the Phoenix AMA. The bill prohibits ADWR from adopting the Carry-Over Rule in the Phoenix AMA, which allows designated municipal water providers to carry over their unused groundwater allowance when applying for redesignation. Since ADWR has already adopted this rule, we do not believe that this provision would have any impact. However, HB 2366 still directs ADWR to review the physical availability of groundwater and stored water for each designated municipal water provider in the Phoenix AMA.

It is clear that HB 2366 is an attempt to question and undermine the groundwater allowances from all designated municipal providers and consequently threaten their ability to remain designated. This bill could cause incalculable damage to growth and development in Phoenix metropolitan area and the entire state by questioning the designations of water providers.

*Last Action Taken – This bill was passed out of House NREW with a 5-4 vote and is awaiting a 3<sup>rd</sup> Read vote on the House floor.*

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**[HB 2589](#) assured water supply; analysis; availability (Dunn)**

*Position – Oppose*

An Analysis of Assured Water Supply is used by developers to “reserve” groundwater for future Certificates. An Analysis of Assured Water Supply is not a permanent guarantee and can expire and be revoked. However, numerous developers have argued that larger investments were made because of the analysis and believe it to be an expectation that they will receive the Certificate.

This bill would require ADWR to consider an Analysis of Assured Water Supply (that was issued before May 31, 2023, and has not expired) as a valid demonstration of physical availability of groundwater for the amount stated in the Analysis. The analysis must have included a finding of physical availability of groundwater. Additionally, ADWR must subtract the amount of groundwater “represented” by all Certificates that were already issued based on the Analysis from the amount of groundwater considered physically available based on the Analysis.

This bill was amended in committee to require ADWR to issue a Certificate using current water demand assumptions instead of water demand assumptions used for the initial Analysis. A separate adopted floor amendment would allow an Analysis holder to reduce the remaining volume of groundwater reserved in that Analysis by 15% after a Certificate has been issued.

This bill appears to be an attempt to require ADWR to resume the granting of some Certificates despite the release of the Phoenix AMA groundwater model. Issued Analyses are already considered in the model, and it has been demonstrated that sufficient physical availability does not exist. The Analyses that this bill applies to would not have been issued if they were based on ADWR’s most recent modeling.

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In fact, ADWR has stopped issuing new Analyses in the Phoenix AMA simply because there is not enough physical availability of groundwater. Requiring ADWR to issue Certificates based on the outdated modeling from these Analyses would not at all be in line with sound water management or scientific best practices.

*Last Action Taken – HB 2589 passed out of the House with a 31-27-1-0-1 vote on February 28<sup>th</sup>.*

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#### **HB 2647/SB 1172 physical availability credits; water supply (Smith/Shope)**

*Position – Oppose*

HB 2647 and SB 1172 would allow the holder of an irrigation grandfathered right (IGR) to earn a physical availability credit by permanently retiring their land from irrigation for future non-irrigation use if certain criteria were met. The land to be retired must have been farmed in 3 of the last seven years, the new non-irrigation use must remain appurtenant to the retired lands, and the groundwater is delivered by a municipal provider, which will withdraw the groundwater from within its service area.

The physical availability credit could also be used to support Certificates and Designations of Assured Water Supply. In addition to being physically available, any groundwater pumped pursuant to this credit would be considered consistent with the AMA's management goal.

The fundamental problem with this bill is that there is no clear connection between a grandfathered right and physical availability of groundwater. The bill tries to address this issue by limiting its applicability to recently used IGRs that would presumably have been factored into the Phoenix AMA groundwater model. In doing so, the intent seems to be reduction of unmet demand. (As background, the model projects agricultural demand at 2021 pumping rates for 100 years. However, this demand is removed when it is within the footprint of an Analysis or Certificate of Assured Water Supply. ADWR has cautioned that it would need to model the timing and location of any retirement of agricultural lands to determine if it would impact the simulated depths to water and unmet demands.)

*Last Action Taken – HB 2647 passed out of the House with a 32-28-0-0-0 vote on March 4<sup>th</sup>.*

*SB 1172 passed out of Senate with a 16-12-2-0-0 vote on February 29<sup>th</sup>.*

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#### **HCR 2040/SB 1195/SCR 1015 public monies; prohibited uses (Kern/Smith)**

*Position – Oppose*

As introduced, this bill would have prohibited any public entity from promoting or becoming a part of an association that promotes (among other things) “reusing water that has touched human feces as a source of municipal drinking water”. The concurrent resolution versions of this legislation would have sought to enact this prohibition through a voter referendum.

All versions of this bill received an amendment that removed the provision that would have effectively banned advanced water purification. However, we are still concerned about the implications these measures could have on water utilities. One of the prohibitions listed in the bill focuses on entities that promote “limiting the increase of average global temperature or producing or adopting a climate action plan.” The term “climate action plan” is not defined, and it could perhaps be interpreted as preventing



our cities from adopting drought/shortage preparedness plans or other plans that involve water conservation. This term could also be used to prevent actions based on new post-2026 Colorado River operating guidelines if those guidelines factor in climate change (which they will).

*Last Action Taken – HCR 2040 passed out of the House with a 31-28-0-0-1 vote on February 29<sup>th</sup>. SB 1195 passed out of the Senate with a 16-12-2-0-0 vote of February 29<sup>th</sup>. SCR 1015 has yet to receive a Third Read on the Senate Floor.*

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#### **SB 1041 groundwater savings certificate; assured water (Hoffman)**

*Position – Oppose*

SB 1041 would create a new type of a certificate (a Groundwater Savings Certificate) that could be used in place of a Certificate of Assured Water Supply when a developer plans to sell or lease subdivided lands in an active management area (AMA). As amended, the Groundwater Savings Certificate will be issued if all the following conditions are met:

Additionally, the SB 1041 directs ADWR to adopt rules by the start of this year that would provide or a reduction in water demand for a Groundwater Savings Certificate if a gray water system is installed that meets ADEQ's requirements and the land in the application qualifies as a Member Land.

This bill manifests a criticism of how ADWR interpreted the unmet demand projected in the Phoenix AMA groundwater model. Some have argued that development should be allowed to continue in areas where the model has projected that the aquifer will not fall below 1,000 feet below land surface or bedrock, whichever is shallower. It also encourages the adoption of gray water systems in the belief that these systems will reduce overall water demand.

SB 1041 would significantly alter the 1980 Groundwater Management Act's principle that the active management area is managed as a hydrologic whole. It would allow for the segregation of property's presumed groundwater from the rest of the basin is hydrologically questionable since groundwater is not stationary, but flows.

This bill received an amendment on February 15<sup>th</sup>, 2024 that adds requirements stating that the groundwater to be used under the Groundwater Savings Certificate must be of sufficient quality, and that the provider or the CAGR must have financial capability to deliver the water. The amendment also requires the groundwater to be used consistent with the management goal and management plan of the AMA, and the bill no longer authorizes ADWR to grant Designations of Assured Water Supply using these certificates.

*Last Action Taken – This bill passed out of the Senate with a 16-12-2-0-0 vote on February 29<sup>th</sup>.*

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#### **SB 1081 exemption area; assured water supply (Kerr)**

*Position – Monitor*

*Recommended Position - Neutral*

SB 1081 intends to incentivize development on agricultural land within the Buckeye Water Conservation and Drainage District. Specifically, the bill would allow ADWR to designate part of city or town that is located in the Phoenix AMA and Buckeye Waterlogged Area as having an Assured Water Supply if several criteria are met. The portion designated must be entirely within an irrigation and water conservation district, the city or town must have contracted with the district for water service for at least 100 years, surface water or effluent of sufficient quality must be continuously available to meet the city or town's needs for 100 years, and the city or town must have sufficient financial capability and infrastructure to treat and deliver the water.

As introduced, the bill had many problems such as requiring ADWR to issue these partial designations based on groundwater and not allowing ADWR to rescind the designation nor require the water provider to meet several Assured Water Supply requirements. CAWCD had been concerned that the bill did not offer any other way to meet the AMA management goal other than through CAGRDR membership. Those concerns have been alleviated through an amendment that has this partial designation through surface water and effluent from the district, including all requirements of the Assured Water Supply, and allowing the designation to be rescinded. ADWR and CAWCD are comfortable with the amendment.

*Last Action Taken – This bill passed House NREW with a 6-4 vote on March 5<sup>th</sup>.*

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#### **SB 1181 groundwater replenishment; member lands; areas (Petersen)**

*Position – Monitor*

*Recommended Position – Neutral*

As introduced, SB 1181 would allow a municipal provider that is seeking a designation to decide whether to assume the replenishment obligation for any Central Arizona Groundwater Replenishment District (CAGRDR) Member Lands within its service area or whether to have the replenishment obligation remain with those Member Lands. If the provider chooses for the replenishment obligation to remain with the Member Land, the Arizona Department of Water Resources (ADWR) would have the authority to require the provider to reduce the replenishment obligations for those Member Lands for a period of time after becoming designated.

This bill was introduced to support non-designated water providers that want to become designated through the Alternative Pathway to Designation (ADAWS), which ADWR is currently developing rules to establish an ADAWS, which was a recommendation from the Governor's Water Policy Council. Utilizing the ADAWS would require the water provider to become a Member Service Area, which would mean that it would need to assume the costs for CAGRDR replenishing any excess groundwater pumping within its service area. Current CAGRDR replenishment obligations have been limited to Member Lands within the water provider's service area. These non-designated water providers have expressed concerns that assuming this increased replenishment obligation in addition to pursuing new water supplies would be a significant financial challenge that would be difficult to gain support from either their governing council or through the Arizona Corporation Commission, if a private water provider. SB 1181 is designed to address that challenge by allowing a gradual assumption of replenishment obligations for Member Lands.

As amended on the floor of the Senate, SB 1181 was approved so it would allow a newly designated provider in the Phoenix AMA to choose whether it will assume the replenishment obligation for Member

Lands within its service area (as a Member Service Area) or have these lands retain this obligation. If the provider does not immediately assume the replenishment obligation, the Member Lands would retain their replenishment obligation for either 10 years or the duration of the first term of the Designation, whichever is shorter. During this initial period, the water provider would report Member Land and Member Service Area replenishment obligations to CAGR D separately. Each year after this initial period, the provider would assume an additional 10% of the replenishment obligation for Member Lands within its service area. This assumption of replenishment would increase 10 percentage points each year until the provider would assume all replenishment obligations for Member Lands within 10 years from the initial period, or a maximum of 20 years total from the start of Designation.

*Last Action Taken – This bill passed out of the Senate with a 21-7-2-0-0 vote on March 4<sup>th</sup>.*

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### **SB 1242 ADWR; application; review; time frames (Shope)**

*Position – Oppose*

SB 1242 would shorten the time frames that the Arizona Department of Water Resources (ADWR) must comply with when processing Assured Water Supply (AWS) applications. It would reduce the administrative completeness review from 150 days to 90 days for all types of applications. Additionally, it would reduce the substantive time frame review from Certificates and Designations from 60 days to 30 days. When combined, all AWS applications would need to be processed within 120 days.

*Last Action Taken – This bill passed out of the Senate on February 19, 2024 with a vote of 16-12.*

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### **SB 1243 groundwater sales; online exchange (Wadsack)**

*Position – Oppose*

SB 1243 proposes to allow those with a grandfathered groundwater right in the Phoenix, Pinal and Tucson Active Management Areas (AMAs) to sell or lease a portion of their right or the groundwater itself to anyone in these three AMAs. Any groundwater right or groundwater sold leased may not be withdrawn in another sub-basin but may be transported to that basin. When a transaction occurs, the buyer lessee is entitled to receive the right to receive or withdraw 65% of the total amount of groundwater that was part of the transaction. The remaining 35% will remain with the land and cannot be pumped, used, or otherwise conveyed.

SB 1243 has numerous problems. First, there has been a market for grandfathered groundwater rights since the passage of the Groundwater Management Act in 1980. Second, by allowing quantities of groundwater to be sold or leased, SB 1243 contradicts established caselaw on managing groundwater. Third, allowing grandfathered rights to be sold for use outside of the AMA in which they were issued threatens the ability to reach the unique management goal of that particular AMA. Fourth, physical availability of groundwater is separate and distinct from the right to pump groundwater. Deeming water pumped pursuant to a Grandfathered Right to be physically available for the purpose of obtaining a Certificate of Assured Water Supply is not based on hydrologic reality and is contrary to the consumer protection purpose of the assured water supply provisions.

*Last Action Taken – This bill passed out of the Senate on March 6<sup>th</sup> with a vote of 16-14.*

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**SB 1289 DWR; hydrology reports (Hoffman)**

*Position – Oppose*

SB 1289 would require the Arizona Department of Water Resources (ADWR) and Governor to provide the House and Senate Committees on Natural Resources, Energy & Water with a copy of any report on the hydrologic conditions of an active management area (AMA) 30 days before that report is issued.

This bill would essentially give lawmakers, and any party that happens to receive this report from a lawmaker, a sneak preview of any projections and findings from an AMA groundwater model. No entity or person was given a physical copy of the report on the projections and findings of the Pinal AMA or Phoenix AMA groundwater model before those were publicly released.

*Last Action Taken – This bill passed Senate NREW on March 5<sup>th</sup> with a vote of 6-4.*

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## Other active water bills being tracked –

### [HB 2006](#) real estate; acting in concert (Griffin)

#### *Position – Neutral*

This bill specifies that familial relationships, well-sharing agreements, road maintenance agreements, and use of the same engineer or contractor do not constitute “acting in concert” to illegally subdivided lands. The bill was amended on the floor to clarify that use of the same contractor or engineer did not constitute “acting in concert” for counties outside of Maricopa or Pima County.

This bill is in response to a recommendation from the Governor’s Water Policy Council to improve oversight of “wildcat” subdivisions, which are lots that are illegally created to circumvent the legal requirements for creating subdivided lands. Specifically, the Council’s recommendation seeks to broaden the applicability of the “acting in concert” statute, which prohibits different parties from working together to divide lands into lots without going through the approval process to formally subdivide those lands.

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### [HB 2007](#) subdivided lands; civil penalties (Griffin)

#### *Position – Support*

This bill implements another recommendation for addressing “wildcat” subdivisions made by the Governor’s Water Policy Council. Under current law, the civil penalty for violating statutes and regulations to unlawfully selling or leasing subdivided lands is a fine of to up to \$2,000. However, any infraction involving more than one lot is considered a single infraction. Therefore, someone who illegally subdivided lands to create 100 lots would be fined as if he created a single lot. HB 2007 would apply this civil penalty to each lot where the violation occurred, which means that the aforementioned subdivider would be fined as much as \$200,000 for illegally creating 100 lots.

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### [HB 2009](#) subdivisions; acting in concert (Griffin)

#### *Position – Support*

This bill would add a time-related criteria to the “acting in concert” statutes by specifying that illegally subdividing lands involves dividing a parcel into six or more lots to sell or lease through a series of owners, conveyances or other methods over a 10-year period. It also requires someone who applies to split a parcel to acknowledge this definition of “acting in concert.”

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### [HB 2013](#) water improvements program; nonprofit corporations (Griffin)

#### *Position – Neutral*

This bill would allow a nonprofit corporation to establish a water improvement program to provide finance assistance to low-income or fixed income property owners to either deepen their drinking water well or replumb their residence for a water delivery system. Although counties have the authority to establish this program, some have declined to do so because they lack the funds necessary to implement it.

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#### **[HB 2014](#) wells; intention to drill; appropriation (Griffin)**

##### *Position – Oppose*

This bill would require the Arizona Department of Water Resources (ADWR) to audit all notices of an intention to drill to determine how many issued notices led to someone drilling a new well or deepening an existing well. The bill also lists additional information that must be collected about these wells and requires ADWR to submit a report of its findings by 2026. Finally, HB 2014 appropriates an unspecified amount of state General Fund monies to ADWR to conduct this audit. However, an amendment removed any mention of this appropriation from the bill.

Notices of intention to drill must be filed with ADWR anytime someone either drills a well or deepens an existing well. ADWR will review the notice and, if it is determined to be accurate and complete and contains the appropriate fee, ADWR will issue a card authorizing the drilling of the well. The well must be drilled or deepened within a year.

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#### **[HB 2015](#) subsequent water management areas; basins (Griffin)**

##### *Position – Neutral*

This bill would limit who can sign a petition to the Arizona Department of Water Resources to designate a subsequent irrigation non-expansion area (INA) or designate an INA as an active management area (AMA). Specifically, this bill would require residents who sign a petition to be receiving their drinking water from the same groundwater basin or sub-basin specified in that petition. HB 2015 would also limit who can sign a petition to hold a local election to designate a subsequent AMA.

The bill was amended to require that any ADWR-initiated public comment session, stakeholder process, or public hearing related to creating a subsequent INA or AMA be held in the groundwater basin or sub-basin that might be designated. The amendment also requires ADWR to explain the potential impact of designation.

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#### **[HB 2016](#) grandfathered right; subsequent AMA; extension (Griffin)**

##### *Position – Neutral*

This bill is an emergency measure that would allow someone within the recently created Douglas active management area (AMA) to file an application for a grandfathered groundwater right with the Arizona Department of Water Resources (ADWR) by September 1, 2024. Within AMAs, pumping groundwater

requires some to obtain a right or a permit from ADWR. A grandfathered groundwater right refers to a right pump groundwater based on the individual's historic water usage; this pumping is essentially "grandfathered" into the AMA.

There have been concerns that some residents of the Douglas AMA (which was designated on December 1, 2022) have not submitted grandfathered groundwater rights applications and therefore might lose their right to pump groundwater. The deadline to apply for these rights is currently March 1, 2024, so HB 2016 would effectively extend that deadline by six months.

This bill received an amendment at Senate NREW that applies the bill's provisions retroactively to February 29<sup>th</sup>, 2024. This added provision appears intended to allow Douglas AMA residents to have their applications for grandfathered rights re-evaluated even if they submitted after the due date as it currently stands (March 1<sup>st</sup>, 2024).

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### **HB 2019 groundwater model; public inspection; challenge (Griffin)**

#### *Position – Oppose*

As introduced, this bill would have required the Arizona Department of Water Resources (ADWR) to make publicly available "at no cost" all information related to groundwater models it uses for Assured Water Supply determinations. It also would have required ADWR to establish a process to allow anyone to challenge any of its groundwater models. The House Natural Resources, Energy and Water Committee adopted two amendments to this bill. The first amendment removed the public challenge process. The second amendment required ADWR to publicly post the assumptions it would use a groundwater model at least 90 prior to its release. ADWR would also be required to invite public comment and provide a response indicating if each comment led to a change in any of the model's assumptions.

Since the release of the Pinal Active Management Area (AMA) groundwater model in Fall 2019, ADWR has been exceedingly proactive in working with stakeholders to address any concerns about its groundwater model. In the case of the Pinal AMA model, ADWR formed a stakeholder group and many of the changes made in response to this group's concerns were carried over to the Phoenix AMA model. ADWR has similarly indicated that it is open to remedying any technical concerns related to Phoenix AMA model. Any changes made would undoubtedly impact the model's assumptions and projections for unmet demand. If anything, the required public comment process required by HB 2019 would delay the release of the model.

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### **HB 2024 lottery; on-farm irrigation efficiency fund (Griffin)**

#### *Position – Support*

This bill would annually appropriate \$50 million from the State Lottery Fund to the On-Farm Irrigation Efficiency Fund in FYs 2025 and 2026. This appropriation would occur after nearly all distributions from the State Lottery Fund are made, but before any remaining fund monies are deposited into the state General Fund.

The On-Farm Irrigation Efficiency Program was created in 2022 to provide grants for farmers to adopt water-efficient drip and sprinkler systems in place of flood irrigation. It received an initial appropriation of \$30 million in ARPA monies in 2022 and received \$15 million more from the state General Fund in 2023. To date, this program (which is administered by the University of Arizona Cooperative Extension) has enabled more efficient irrigation on over 18,000 acres of farmlands, resulting in an annual water savings of about 36,000 acre-feet.

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#### **HB 2027 subsequent AMAs; assured water supply (Griffin)**

*Position – Neutral*

This bill would not require a subdivision that is within the boundaries of a county or municipality that had adopted a mandatory water adequacy ordinance to show an adequate water supply if that subdivision is included in a subsequent active management area. Any such subdivision that has already been shown to have an adequate water supply would be considered to have an assured water supply.

This bill is intended to resolve some regulatory ambiguities raised by the recently created Douglas AMA in southeastern Arizona. While AMAs require an *assured* water supply before developing subdivided lands, rural communities only require that developers disclose whether subdivided lands have an *adequate* water supply. However, rural counties and municipalities can adopt ordinances requiring a demonstration of adequate water supply before subdivided lands are developed. Cochise County has adopted one of these mandatory water adequacy ordinances. The creation of the Douglas AMA, which is within Cochise County, raised questions of how the county's mandatory water adequacy ordinance and the subdivisions authorized under it would be treated. HB 2027 is intended to resolve these ambiguities.

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#### **HB 2060 irrigation non-expansion area; substitution; acres (Griffin)**

*Position – Neutral*

This bill would allow a person who owns irrigated acres within an irrigation non-expansion area (INA) to permanently retire those acres and transfer the irrigation right to a piece of land that is the same acreage in the same INA and use the associated water for any purpose. The person must demonstrate to ADWR that the transfer of the irrigation right will not lead to a net increase in groundwater withdrawal within the INA. However, ADWR may not condition approval of the acreage substitution on groundwater withdrawal being decreased.

An INA essentially freezes the amount of lands that may be irrigated within its boundaries. With some exceptions, only those lands that were irrigated any time in the five years preceding the INA's creation may continue to be irrigated once the INA is created. One of those exceptions occurs when there is an issue inherent to the lands that are allowed to be irrigated. Specifically, lands irrigated within an INA may be retired from irrigation and replaced with a comparable amount of lands when the lands to be retired are either flood damaged or have a condition that limits the ability to achieve more efficient irrigation.

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### **[HB 2063](#) exempt wells; certificate; groundwater use (Griffin)**

*Position – Neutral*

This bill reiterates that owners of exempt wells are allowed to pump no more than 35 gallons per minute and requires ADWR to issue owners of exempt wells with a “Certificate of Water Rights” that says as much. This bill also clarifies that exempt well owners may not appropriate subflow or surface water out of priority and further specifies that withdrawn water is not exempt from a general stream adjudication.

This bill may be proposed in response to recent actions in the Gila River general stream adjudications. In December 2021, at the request of the adjudication court, ADWR issued a report that proposed a subflow zone for the Verde River Mainstem and the Sycamore Canyon Subwatershed, which will assist the court in distinguishing between subflow and groundwater. ADWR issued a separate report for the remainder of the Verde River watershed in April 2023, which included all tributaries not covered in the 2021 report. Those who filed statements of claim in the Gila River general stream adjudication could file objection with the Maricopa County Superior Court related to ADWR’s findings by October 27, 2023. After that date, the court will review these objections and consider further proceedings before ultimately issuing an order on the subflow boundaries for this watershed. Once those boundaries are established, the court will determine wells are located within the subflow zone and which wells are outside this zone. Wells within this zone are presumed to pump surface water. Wells outside this zone may pump surface water depending on how the pumping impacts the subflow zone.

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### **[HB 2096](#) tiny homes; construction; requirements; exemptions (Parker B)**

*Position – Neutral*

This bill requires that counties ensure “maximum ease” when considering the construction of residences on “residential rural land”. The bill also states that counties cannot require building permits for single-family home and accessory dwelling units built on residential rural land, they meet some requirements. These requirements include a maximum size of 600 square feet for the home and a requirement that the home is attached to utility service, or otherwise has on-site electrical generation capacity, on-site water storage, and an on-site wastewater treatment or graywater system. Counties are allowed to require the owners and/or builders of said buildings to sign an affidavit saying that they will abide by the requirements in the bill, and that they are not constructing the building with the intent of selling or leasing it.

This bill, along with HB 2097, is intended to allow for easier construction of tiny homes on county islands and other unincorporated land. While this bill does not necessarily directly impact the AMWUA cities, the proliferation of residential buildings on county islands raises questions about exactly how wastewater will be discharged and treated; and therefore, is something that AMWUA should monitor.

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### **[HB 2097](#) gray water; definition; residential standards (Parker B)**

*Position – Neutral*

This bill prohibits county supervisors from putting additional regulations or zoning restrictions on use of graywater systems or on land improvements that allow for the use of graywater systems. This bill also adds a definition of a “composting toilet” to Title 49 and clarifies that a kitchen sink that includes a garbage disposal does not produce graywater. This bill also clarifies that a graywater treatment and disposal system does not constitute an on-site wastewater treatment facility. This bill prohibits a city, town or county from requiring notice or permit before a resident can use graywater if the resident meets a series of requirements that are meant to prevent the graywater from contaminating aquifers or food sources. Lastly, this bill prevents a city, town, or county from prohibiting a composting toilet on an unincorporated lot of two acres or more that is not adjacent to a city or town.

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#### **HB 2101 land division; applicant submissions; review (Griffin)**

##### *Position – Support*

HB 2101 requires an applicant for a land division to answer two additional questions when submitting an application. The first question asks if them or related parties own or represent any property in the same tax parcel map or subdivision as the lots in the application. The second question asks if them or related parties have sold or leased any property within the same tax parcel map or subdivision as the lots in the application.

The House Land, Agriculture, and Rural Affairs Committee amended this bill to require applicants for land divisions and building permits for new single-family homes to identify any ownership interest in the property. It also exempted properties for which a public report has been issued within the last 10 years and that have had no material changes to the plat.

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#### **HB 2123 wells; water measuring devices; prohibition (Smith)**

##### *Position – Oppose*

As amended, this bill prohibits the State or any political subdivision of the State from requiring a water measuring device for any well with a location that meets all of the following criteria:

- In a basin or subbasin that is subject to a general adjudication of water rights that has not yet been completed;
- outside of an initial Active Management Area (AMA); and
- outside of a basin from which groundwater can be withdrawn and transported to an AMA.

This bill, despite not applying to initial AMAs or the specific transportation basins, is a threat to ADWR’s ability to regulate groundwater in Arizona. This bill is also in obvious opposition to the intent and recommendations of the Governor’s Water Policy Council’s Rural Groundwater Committee.

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#### **HB 2184 brackish groundwater pilot program (Smith)**

##### *Position – Neutral*

This bill would amend the 2023 General Appropriations Act to state that \$2 million previously appropriated to ADWR for the purpose of a brackish groundwater desalination demonstration program within the AMAs can now be used for such a demonstration program anywhere within Arizona. This bill also states that ADWR may locate this demonstration program within any administrative section of ADWR, rather than within the AMA section. Lastly, this bill states that \$9 million previously appropriated towards dollar-for-dollar matches for brackish water desalination projects by CAP subcontractors within AMAs can now be used for such matches anywhere within Arizona. CAP will be provided \$3 for every dollar it contributes towards such programs that are within AMAs.

Pursuing the use of brackish groundwater as a “new” supply of water continues to be an inappropriate use of state funds and ADWR’s time, as brackish groundwater is deemed hydrologically and legally as groundwater within ADWR modeling and the Assured Water Supply Program. However, this funding has already been appropriated, and this bill takes a slightly positive turn by allowing ADWR slightly more flexibility in the use of this funding. One may speculate that ADWR has had trouble putting this funding to use within AMAs, because of the aforementioned reality about brackish groundwater, so the flexibility granted by this bill may allow them to carry out such a study elsewhere in Arizona.

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#### **HB 2195 on-site wastewater treatment facilities; permitting (Hendrix)**

*Position – Monitor*

This bill would allow an on-site wastewater treatment facility with a design flow between 3,000 and 75,000 gallons per day to operate under a general Aquifer Protection Permit (APP) rather than having to obtain an individual permit. The facility operator must comply with existing general permit rules, and the bill also requires ADEQ to create requirements for maintenance, monitoring, recordkeeping, and reporting that would apply to such facilities operated under a general permit. The House Natural Resources, Energy and Water Committee adopted an amendment that allowed ADEQ to require an on-site wastewater treatment facility with a design flow of 50,000 gallons or more per day or for a site with multiple facilities with a collective flow of 50,000 gallons or more per day to provide adequate financial assurance.

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#### **HB 2368 transportation; groundwater; Douglas AMA (Griffin)**

*Position - Neutral*

HB 2368 would allow a private water company to withdraw groundwater from the Upper San Pedro Groundwater Basin to transport to the Douglas AMA if the groundwater will be used for municipal service, the private water company or its predecessor had been engaged in this transportation since September 30, 1992, and the company holds a Certificate of Convenience and Necessity to provide water service in the Douglas AMA. HB 2368 limits the amount of groundwater that may be annually transported to the annual amount that was transported before December 1, 2022. A floor amendment clarified that the bill’s provisions apply to an owner of a non-exempt well. It also required the well owner to report information to ADWR on how much groundwater was annually transported between the Upper San Pedro Groundwater Basin and the Douglas INA between 2012-2022.

HB 2368 is intended to allow Arizona Water Company – Bisbee to continue transporting groundwater to the Town of Douglas. The company's service area is mostly within the Upper San Pedro Groundwater Basin though part of it overlays the Douglas AMA. The Company relies on four wells near Naco to provide groundwater.

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#### **[HB 2487](#) residential lease community; Prescott AMA (Bliss)**

*Position – Neutral*

HB 2487 would establish water supply-related criteria to dictate when a city or town in the Prescott AMA or the Yavapai County Board of Supervisors could approve a commercial building plan for a build-to-rent or multi-family housing property. As amended on the House floor, this plan could only be approved if the development in question either

- Obtained water service from a designated water provider;
- Acquired sufficient Type 1 or Type 2 non-Irrigation Grandfathered rights to meet the development's annual demand;
- Retired sufficient Irrigation Grandfathered Rights to meet the development's annual demand;
- Acquired sufficient extinguishment credits or effluent long-term storage credits to meet the development's annual demand; or
- Acquired sufficient renewable or imported water supplies to meet the development's annual demand.

The floor amendment also added an emergency clause to the bill, which would allow it to go into effect on the Governor's signature if at least 2/3 of each legislative chamber vote in favor of the bill.

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#### **[HB 2628](#) department of environmental quality; omnibus (Griffin)**

*Position – Neutral*

HB 2628 is an omnibus bill that makes various changes to the Arizona Department of Environmental Quality's statutes, including those related regulating coal combustion residuals and vehicle emissions. The only water-related provisions of this bill involve the Monitoring Assistance Program, which helps smaller water systems comply with the Safe Drinking Water Act, and one change to the Underground Injection Control (UIC) Program.

For the UIC Program, HB 2628 repeals A.R.S. 49-257, which requires the Safe Drinking Water Act's definitions for this program and implementing regulations to apply to the State's UIC Program.

Regarding the Monitoring Assistance Program, HB 2628 authorizes ADEQ to adopt rules that establish criteria for public water systems to opt out of this program. The bill also allows ADEQ to conduct additional sampling when a system's sample exceeds a limit established in the Safe Drinking Water Act's rules. Finally, HB 2628 allows the program's fund to receive federal monies and private grants, gifts, and contributions and provides more flexibility to ADEQ when a fund surplus occurs.

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**SB 1056 municipalities; counties; fee increases; vote (Petersen)**

*Position – Oppose*

This bill would require a two-thirds vote in favor by the common council of a municipality or the board of supervisors of a county before any increase of any assessment, tax, or fee.

This bill would make it harder for city councils to pass any increase of assessments, taxes, or fees. This would certainly make it harder to increase development fees and may make it harder to increase other fees associated with water service in the AMWUA cities. While it is necessary that assessment, tax, and fee increases are run through city councils, requiring a two-thirds majority is unnecessarily cumbersome. The additional barrier this creates makes it even harder for city water departments to recoup their costs for providing quality water and wastewater services to their residents.

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**SB 1153 regulatory costs; rulemaking; legislative ratification (Kern/Carroll)**

*Position – Oppose*

This bill would require any proposed rule that is “estimated to increase regulatory costs” in Arizona by more than \$100,000 within five years to be submitted to the Office of Economic Opportunity (OEO) for review. Any proposed rule that the OEO confirms will cost the state more than \$500,000 within five years may not become effective until the Legislature enacts legislation ratifying the proposed rule. After confirmation of cost, the OEO would submit the proposed rule to the Administrative Rules Oversight Committee, and the Committee would submit the rule to the Legislature “as soon as practicable”. The agency is prohibited from submitting a finalized rule until the Legislature ratifies the rule, and the agency must terminate the proposed rule if the Legislature fails to ratify it within the same legislative session that it was submitted to the Committee. Additionally, any person regulated by an agency proposing a rule and any State Legislator may submit a rule to the OEO for review.

This bill is troubling because of the wide-ranging impacts it could have on ADWR, ADEQ, and every other state agency. Oversight of agency rulemaking should be handled through public stakeholder processes, and not through the political machinations of the legislature.

This bill received an amendment on February 15<sup>th</sup> that added the requirement that any bill costing more than \$100,000 be submitted to the OEO, and that any person or Legislator may submit a bill for review.

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**SB 1221 basin management areas; appropriation (Kerr)**

*Position – Neutral*

This bill would establish a type of rural groundwater management framework called a Basin Management Area (BMA). These areas may only be initiated through a petition by voters who live within the groundwater subbasin or basin covered by the area. These areas may be turned into Active Basin Management Areas if there is a unanimous vote by all County Boards of Supervisors that govern land contained within the Management Area. Active Management Areas are managed by a five-person council that works in conjunction with ADWR and the State Legislature to develop a management plan for the Area and provide financial assistance for water conservation.

Despite Senator Kerr's decision to leave the Governor's Water Policy Council last year, this bill is in some ways consistent with the recommendations developed by the Council's Rural Groundwater Management Committee. A concern that exists with the bill is that it may inhibit the formation of new Active Management Areas (AMA) or Irrigation Non-Expansion Areas (INA) because of a provision that prohibits an area that is currently a Basin Management Area from becoming an AMA or INA. Additionally, the process that this bill creates to establish a Basin Management Area in the first place is so convoluted that it is possible one of these areas will never be created.

This bill received amendments on February 7<sup>th</sup> and 9<sup>th</sup> that established criteria under which ADWR may submit an area to a County Board of Supervisors for designation as a Basin Management Area. ADWR may submit an area if it is an INA that is not a groundwater transport basin or if it is any basin that has experienced mean groundwater level declines more than 50 feet between 2000 and 2020. A separate floor amendment modified several other provisions, such as reducing the required annual decline in index well levels from 10 feet to 5 feet to create a BMA and establishing processes to convert agricultural groundwater rights to municipal or industrial user and to transfer groundwater rights.

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#### **SB 1264 Colorado River; pumping; notice; objection (Borrelli)**

##### *Position – Neutral*

SB 1264 requires, as part of a notice of intent to drill filed with the Arizona Department of Water Resources (ADWR), a statement indicating that there is no objection from a municipality, county, irrigation district, or the Mohave County Water Authority with a Colorado River entitlement when the well is an exempt well that will be drilled either:

- Within the city limits or water service area (as defined in a Colorado River entitlement contract) of a municipality in a county adjacent to the Colorado River;
- Within the service area of an irrigation district in a county adjacent to the Colorado River;
- Within 5 miles of the Colorado River in a county adjacent to the Colorado River; or
- Within the water service area of the Mohave County Water Authority.

The person intending to drill this well must first submit a notice of intent to drill to the applicable municipality, county, irrigation district, or county water authority. If the applicable governing body does not object to this application within 45 days, ADWR is directed to assume that the governing body does not object and process the application.

## Water bills no longer active –

### [HB 2010](#) cities; towns; water reuse plans (Griffin)

*Position – Neutral*

This bill would allow a municipality’s common council to participate in water reuse and recycling programs and regional wastewater recharge projects and related infrastructure. We do not currently know the intent or need for this legislation.

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### [HB 2011](#) lottery; water infrastructure finance authority (Griffin)

*Position – Support*

This bill would annually appropriate \$50 million from the State Lottery Fund to the Water Infrastructure Finance Authority (WIFA). This appropriation would occur after nearly all distributions from the State Lottery Fund are made, but before any remaining fund monies are deposited into the state General Fund. This \$50 million appropriation would be evenly divided between the Water Supply Development Revolving Fund and the Water Conservation Grant Fund.

While the Water Supply Development Revolving Fund can receive revenue from fund bonds and loan repayments, the Water Conservation Grant Fund lacks a dedicated revenue source. The Water Conservation Grant Fund received a single \$200 million appropriation in American Rescue Plan Act monies, and those funds are set to be fully encumbered by the end of the calendar year.

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### [HB 2018](#) subsequent irrigation non-expansion area; removal (Griffin)

*Position – Oppose but Seek to Amend*

HB 2018 would require the Arizona Department of Water Resources (ADWR) to periodically review subsequent irrigation non-expansion areas (INAs) to determine whether they still meet the criteria to qualify for an INA. ADWR would also have the authority to rescind an INA’s designation if it no longer meets these criteria. Additionally, the bill would establish a process by which local residents could petition ADWR to rescind a subsequent INA’s designation. Finally, HB 2018 would restrict who can sign a petition requesting that ADWR designate a subsequent INA to registered voters who receive their drinking water from the basin or sub-basin specified in the petition.

INAs—which were originally established in 1948 as “critical groundwater areas”—are designed to preserve groundwater for future agriculture by essentially prohibiting the expansion of any irrigated acreage. In A.R.S. 45-431, initial irrigation expansion areas are listed as the Douglas critical groundwater area and Joseph City critical groundwater area. The Harquahala INA was designated by ADWR in 1982, which means it would be considered a subsequent INA. Aside from the Harquahala INA, the only other subsequent INA is the Hualapai Valley INA, which was designated by ADWR in October 2022.

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### **[HB 2028](#) groundwater model; unpledged storage credits (Griffin)**

#### *Position – Oppose*

This bill would require the Arizona Department of Water Resources (ADWR), when making a groundwater model to help evaluate Assured Water Supply determinations, to assume that any long-term storage credits (LTSCs) not pledged to a current water user or Assured Water Supply application will be available for use.

This bill is intended to address a criticism that the Phoenix AMA groundwater model, which projected a 4% overallocation of groundwater over the next 100 years, did not fully consider the availability of future LTSCs that could be used in place of groundwater.

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### **[HB 2056](#) appropriation; on-farm efficiency fund (Dunn)**

#### *Position – Support*

This bill would appropriate \$30 million from the State General Fund for FY 225 to be used for the On-Farm Irrigation Efficiency Fund.

The On-Farm Irrigation Efficiency Program was established in 2022 and is administered by the University of Arizona's Cooperative Extension. The program provides grants and collects data for the purpose of reducing on-farm use of Colorado River water, surface water, and groundwater, while also seeking to reduce use of flood irrigation and instances of fallowing. Essentially, the program seeks to reduce water use through efficiency gains rather than reducing farmed acres.

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### **[HB 2057](#) appropriation; long-term water augmentation fund (Dunn)**

#### *Position – Support*

This bill would appropriate \$143.8 million from the State General Fund for FY 2024 for WIFA's Long-Term Water Augmentation Fund. This appropriation would also be exempt from lapsing at the end of FY 2024.

This appropriation would make WIFA's Long-Term Water Augmentation Fund whole again, after \$143.8 million in funding was directed elsewhere instead of to that fund in the 2023 session. AMWUA is supportive of funding that can help WIFA secure additional water sources for our state and our member cities.

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### **[HB 2058](#) Yuma water banking; study committee (Dunn)**

#### *Position – Oppose but Seek to Amend*

This bill would establish the Yuma Area Water Banking Study Committee. This committee would consist of two Yuma-area senators and four Yuma-area representatives from the State Legislature, as well as



seven members of the Yuma Area Agricultural Council, each of whom would represent one of the seven irrigation districts in Yuma County. The purpose of the committee would be to develop legislation to establish a water banking authority for the “Yuma County area” that would bank excess Colorado River water. The committee would submit a report of its findings to the Governor and State Legislature by 2025. This bill would also require ADWR to assign staff and provide services to the committee.

The biggest concern raised by the potential creation of a water banking authority for Yuma County are the implications for lower priority Colorado River users. If this authority would bank higher priority excess Colorado River water for Yuma-area agricultural users, many of whom have senior Colorado River water rights, it could adversely impact the Central Arizona Project and other lower priority Colorado River users by leaving less water in the river.

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**HB 2059 contiguous real estate; definition (Griffin)**

*Position – Neutral*

This bill would amend the definition of “contiguous” in reference to subdivisions to include lots, parcels or fractional interests that are separated by a private road or street. This bill also clarifies that lots separated by a public road or street are not considered contiguous.

This bill is in response to the recommendations made by the Governor’s Water Policy Council in relation to wildcat subdivisions. However, this bill does not appear to capture the spirit of what was recommended by the Council. The Council’s recommendations stated that only highways would be able to separate lots and make them “non-contiguous”, whereas this bill states that any public road would make lots “non-contiguous”, which would include any city or town road

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**HB 2061 subsequent active management area; removal (Griffin)**

*Position - Oppose*

This bill would require ADWR to periodically review all areas that are included within subsequent Active Management Areas (AMAs) and determine whether the areas still meet the criteria for inclusion within an AMA. This bill would also require voters to obtain their drinking water from within a groundwater basin before they can vote on whether that basin should be designated as a subsequent AMA. This bill would also allow a subsequent AMA designation to be removed if ten percent of voters within the AMA sign a petition calling for the removal and then a majority of voters approve this removal in a general election.

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**HB 2099 active management area; groundwater right (Griffin)**

*Position – Oppose*

This bill would prohibit ADWR, in an AMA that had previously been an INA, from granting a water duty acre that is less than the highest annual withdrawal of the user since the basin was designated as an INA. This bill also requires ADWR to grant any person who owns legally irrigated land (in an AMA that

was previously an INA) an irrigation water duty and a designation of the number of farm units that is consistent with the user's highest annual withdrawal since the basin was designated as an INA. ADWR would be required to provide groundwater users with notice of their granted water duty and farm units and cannot charge the user any fee or require any application. The user can contest the granted water duty and farm units. Lastly, this bill states that on the effective date of the act ADWR will grant all groundwater users in the Douglas AMA an irrigation water duty consistent with this act. This is an emergency measure.

This bill is would essentially eliminate ADWR's ability to regulate agricultural groundwater pumping in the recently designated Douglas AMA.

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#### **HB 2150 groundwater sales; online exchange (Kolodin)**

##### *Position – Oppose*

HB 2150 proposes to allow those with a grandfathered groundwater right in the Phoenix, Pinal and Tucson Active Management Areas (AMAs) to sell or lease a portion of their right or the groundwater itself to anyone in these three AMAs. Any groundwater right or groundwater sold leased may not be withdrawn in another sub-basin but may be transported to that basin. When a transaction occurs, the buyer lessee is entitled to receive the right to receive or withdraw 65% of the total amount of groundwater that was part of the transaction. The remaining 35% will remain with the land and cannot be pumped, used, or otherwise conveyed.

Any groundwater or right conveyed would be exempt from replenishment by the Central Arizona Groundwater Replenishment District, excluded from a designated water provider's groundwater allowance, deemed consistent with the AMA's management goal, and deemed physically available for obtaining a Certificate of Assured Water Supply.

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#### **HB 2182 augmentation; Phoenix; Pinal; Tucson; AMA (Kolodin)**

##### *Position – Monitor*

This bill would change the allowable uses of WIFA's Long-Term Water Augmentation Fund to include creating new water sources and purchasing new water or purchasing rights to use new water created within Arizona. The bill also states that the fund cannot be used to purchase water or rights to water from in-state users unless the purchase is related to the creation of new water. The bill also states that the funds can be used to construct infrastructure to convey or deliver new water created in Arizona. Lastly, the bill states that 75% of any money left in the fund for FY22, FY23, or FY24 as of the effective date of the bill must be used to supply imported or new water to users within the Phoenix, Pinal, or Tucson AMAs.

### **[HB 2214](#) water treatment facilities; loan repayment (Terech)**

#### *Position – Support*

This bill would remove from Title 9 a requirement that cities and towns with a population of more than 150,000 must hold a public vote before the city or town may enter into a federal financial assistance loan repayment program through the Water Infrastructure Finance Authority (WIFA). This bill would also remove a similar requirement that applies to all counties.

Requiring municipalities with a population of more than 150,000 people to ask for a vote before entering a federal loan repayment program through WIFA puts an unfair barrier between most of the state's population and crucial water resources development funding. No such requirement exists for any other loan repayment program or funding source, and the fact that the State Legislature put a five year stay on this provision shows that it is unnecessary and harmful.

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### **[HB 2320](#) watersheds; beneficial use; instream flows (Travers)**

#### *Position – Monitor*

This bill would allow the Game and Fish Commission to acquire and lease surface water rights for “watershed health uses and instream uses”. This bill also defines “watershed health uses” as water that is conserved in a natural watercourse and not otherwise used and that supports watershed health. This bill also requires ADWR to conduct a watershed health survey every three years after the initial survey (which is not described in this bill). The survey will evaluate the overall health of each watershed in the state based on hydrology, geomorphology, plant and animal biodiversity, landscape condition, and other factors. This bill also adds watershed health as a reason why a water right may be severed and transferred from the land to which it is appurtenant.

While it is a laudable goal to evaluate the overall health of Arizona's watersheds, it is worrying that another large responsibility would be placed on ADWR without additional funding or other resources.

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### **[HB 2355/SB 1108](#) subsequent active management area; designation (Stahl Hamilton/Sundareshan)**

#### *Position - Monitor*

This bill would require ADWR to designate as an AMA any area that meets the AMA designation criteria. The criteria include water quality degradation from groundwater use, land fissures, and active management to preserve groundwater for future use.

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**[HB 2356/SB 1328](#) subsequent irrigation; non-expansion areas; procedures (Stahl Hamilton/Sundareshan)**

*Position – Monitor*

This bill would allow ADWR to consider “reasonable projections” of future irrigation groundwater use when considering whether to designate an area as a subsequent INA, rather than only considering current irrigation groundwater use. This bill also defines the acceptable amount of groundwater available for irrigation as a 100-year supply. This bill also specifies who may sign a petition to designate a subsequent INA, including someone who is the owner of irrigated land, has irrigated two or more acres in the basin in the past five years, or “is capable of irrigating the land in the future”. This bill requires these petitions to be submitted along with a numeric groundwater model and hydrologic report prepared by a professional geologist or hydrologist. Lastly, this bill states that ADWR’s final decision on the designation of a subsequent INA are not an appealable agency action but are subject to judicial review, and that after a refusal another petition to designate the area may not be submitted for three years.

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**[HB 2357/SB 1329](#) watershed health; use; survey (Stahl Hamilton/Sundareshan)**

*Position – Monitor*

This bill would require ADWR to establish criteria to evaluate the status of the relationship between “ecological water needs”, groundwater withdrawal, and surface water appropriations in Arizona. This bill also requires ADWR to complete a survey of the status of the waters of Arizona by December 31, 2026. This survey must include an assessment of the overall health of all watersheds in the state, and a lesser assessment of the health of sub-watersheds and the health of the ecosystems they support. ADWR must also determine the appropriate steps to be taken to remedy the problems in these watersheds and recommend legislation through which to take these steps. ADWR is also required to hold public meetings and receive and publish public comments on this survey and make the survey public when it is complete. This bill also includes the same requirements for follow-up surveys and the same definitions that are included in HB 2320.

Again, while it is laudable goal to evaluate the overall health of Arizona’s watersheds, it is worrying that another large responsibility would be placed on ADWR without additional funding or other resources.

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**[HB 2358/SB 1106](#) state lands; leases; groundwater use (Stahl Hamilton/Sundareshan)**

*Position – Support*

This bill would require ADWR to establish rules to govern an annual groundwater withdrawal fee that it will levy upon each lessee of State Land for agricultural purposes that is located outside of an AMA or INA. These lessees would be required to submit a report to ADWR each year that details the locations of any wells, the amount of groundwater withdrawn from these wells, and why the groundwater was used.

This bill would disincentivize agricultural groundwater use on State Land outside of AMAs and INAs and would also bring additional revenue to ADWR.

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**[HB 2359](#) adequate water supply; statewide requirements (Stahl Hamilton)**

*Position – Support*

This bill would require a city, town, or county to ensure that a subdivision has an adequate water supply or will be served by a provider with an adequate water supply before it may be platted. This bill would also require the Department of Real Estate to ensure that a subdivision has an adequate water supply or will be served by a provider with an adequate water supply before it may issue a public report and allow sale or lease of the land. This bill would also repeal provisions that allow capital investment and infrastructure assurances that would allow development to continue despite no adequate water supply existing.

Currently, most areas outside of AMAs do not require an adequate water supply before development can occur. Developers may apply for determination of adequate water supply with ADWR, but it is not required. Some areas (e.g. Yuma County, Town of Clarkdale) do require an adequate water supply before development, despite not being located in an AMA. This bill would place that “mandatory adequacy” requirement on all areas of the state outside of AMAs and is therefore a big step forward in ensuring that we have water first, and then development.

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**[HB 2399/SB 1246](#) reporting; groundwater pumping; measuring (Crews/Sundareshan)**

*Position – Support*

This bill would require measurement and reporting by anyone who owns a non-exempt well outside of an AMA or INA if the well withdraws more than 10 acre-feet per year for a non-irrigation use or is used to irrigate 10 or fewer acres for an irrigation use. This bill also lists the reporting requirements for the well owner.

Accurate measurement and reporting of groundwater use within Arizona is essential to sound groundwater management. Groundwater availability in Arizona is more threatened now than it has been in at least the past 40 years, and now is exactly when we should be showing the rest of the world that we are serious about sound water management.

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**[HB 2708](#) WIFA; water augmentation fund (Villegas)**

*Position – Support*

This bill would allow WIFA’s Long-Term Water Augmentation Fund to be used to fund water supply development projects that utilize sources of water found within Arizona. This bill would also remove the requirement that 75% of the Fund be used to bring in new water supplies from outside of Arizona.

This bill would accomplish mostly the same thing as HB 2182. However, this bill does not include the requirement from HB 2182 that most of the Fund be used within the Phoenix, Tucson, or Pinal AMAs. Still, this bill is certainly a step in the right direction.

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**[HB 2842](#) basin-fill aquifers; groundwater; correlative rights (Kolodin)**

*Position – Neutral*

This bill repeals A.R.S. 45-544, which sets parameters for transporting groundwater outside active management areas (AMAs). In its place, the bill creates a new statute to govern groundwater transportation in these areas, which it refers to as basin-fill aquifer areas. In these areas, groundwater may be transported within the same basin or sub-basin. Any transportation would not be subject to any claims of damages from other groundwater users. It also may be withdrawn and used consistent with correlative rights of landowners. The Arizona Department of Water Resources (ADWR) would determine these correlative rights based on a formula that considers the area of the owner's land, the volume of groundwater available in the basin or sub-basin, and annual natural recharge. The resulting correlative right would be converted into a lump volume of groundwater that would be assigned to an account for each landowner. This volume would effectively limit the amount of groundwater that a landowner could pump. HB 2842 would also require a regular audit and hydrological audit of these accounts.

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**[HB 2857](#) rural groundwater management (Mathis)**

*Position – Neutral*

This bill would allow the creation of rural groundwater management areas in areas not currently included within an Active Management Area. These areas could be designated by ADWR if it is found that there is significant land subsidence or if current groundwater pumping is threatening current or future groundwater supply or quality. These areas could also be designated if a petition is signed by either the majority of the members of a County Board of Supervisors with lands within the area, or by ten percent of registered voters residing within the area. ADWR will be required to hold a public hearing where they present data and solicit public comments about the establishment of the area.

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**[HB 2860](#) water conservation infrastructure; reimbursement (Livingston)**

*Position – Monitor*

HB 2860 would create a new program that allows cities, towns, and counties to reimburse themselves for up to 80% of the costs of constructing water conservation improvement infrastructure that supports manufacturing facilities. This reimbursement would come from state transaction privilege tax revenues that had been collected within that particular city, town, or county. This bill is modeled off an existing program that allows qualifying cities, towns, and counties to be similarly reimbursed for public infrastructure for manufacturing facilities. (The existing program has been used to support Intel's facility in Chandler and Phoenix's planned TSMC facility.) The water conservation improvement infrastructure in HB 2860 includes wastewater reclamation, recycling, treatment, storage, and delivery facilities. Similar to the existing public infrastructure program, the program proposed by HB 2860 is limited to allocating up to \$200 million among all qualifying political subdivisions and would expire in 2033.

**[HB 2894](#) rainwater harvesting; appropriation (Hernandez M)**

*Position – Monitor*

This bill would appropriate \$1 million from the State General Fund for Fiscal Year 2024-2025 to ADWR for the purpose of establishing a rainwater harvesting grant program. This program would provide grants to people that wish install either a “passive” or “active” rainwater harvesting system. The award would be up to \$500 for people who install a “simple and passive” rainwater harvesting system, and up to \$2,000 for those who install a more complex system. The grant money would be able to be used towards rain storage tanks and associated items, such as gutters.

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**[SB 1107](#) long-term storage accounts; credits; percentage (Sundareshan)**

*Position – Oppose*

This bill would change the amount of recoverable stored water that ADWR will credit to long-term storage accounts from 95% to 70%. In other words, this bill increases the so-called “cut to the aquifer” for most long-term storage from 5% to 30%.

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**[SB 1109](#) water augmentation fund; appropriation; rights (Sundareshan)**

*Position – Oppose*

This bill would transfer \$30 million from WIFA’s Long-Term Water Augmentation Fund for FY 2024 to ADWR to be used to purchase and retire irrigation grandfathered rights. This bill also requires ADWR to begin purchasing and retiring these rights by the end of 2024.

This bill has a laudable goal. Voluntarily purchasing and retiring irrigation grandfathered rights could be an essential tool in reducing groundwater pumping within AMAs and will include developing a monetary incentive. However, the Long-Term Water Augmentation Fund is not the place to get the funding for such a project. WIFA has already faced numerous budget cuts at a time when we need new water supplies more than ever.

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**[SB 1241](#) tax credit; gray water systems (Shope)**

*Position – Neutral*

This bill would establish a tax credit of up to \$5,000 for both individuals and corporations that install a graywater system that complies with ADEQ regulations established in ARS § 49-204(C). This tax credit would be available for tax years 2025 through 2035.

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### **[SB 1245](#) drinking water standards; pollutants (Sundareshan)**

#### *Position – Monitor*

This bill would require ADEQ to establish Aquifer Water Quality Standards (AWQS) for chromium-6 (hexavalent chromium), 1,4-dioxin, and all PFAS chemicals. This bill would also remove a requirement that state regulations established by ADEQ are no more stringent than federal regulations about the same subject matter.

EPA and ADEQ are already in the process of developing monitoring rules for the compounds listed in this bill. This bill would simply seek to accelerate the process for ADEQ specifically to regulate these compounds and would seek to allow ADEQ to impose regulations stricter than those of the EPA.

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### **[SB 1325](#) aquifer management; conservation; priority (Sundareshan)**

#### *Position – Monitor*

This bill would require ADWR to prioritize the “conservation and maintenance” of Arizona’s aquifers above all else, followed in priority by the protection of Arizona’s “consumers” and then finally the protection of “all other users”.

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### **[SB 1326](#) subdivisions; assured water supply; lots (Sundareshan)**

#### *Position – Support*

This bill would require anyone who proposes to offer one or more lots, parcels, or fractional interests for sale or lease (regardless of the lease term) within an AMA to obtain a Certificate of Assured Water Supply (CAWS) or a commitment of service from a Designated Provider. In cases where approval of the plat is not required, this bill would require a CAWS or commitment of water service before a building permit may be issued. This bill would also require the plat to obtain a CAWS or commitment before it was approved for development, even in areas where approval is not required, which seems redundant. This bill would separate the existing requirement to obtain a CAWS or a commitment of service from the definition of a subdivision.

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### **[SB 1327](#) assured water supply; building permits (Sundareshan)**

#### *Position – Support*

This bill would require anyone who proposes to offer one or more lots, parcels, or fractional interests for sale or lease within an AMA to obtain a Certificate of Assured Water Supply (CAWS) or a commitment of service from a Designated Provider. In cases where approval of the plat is not required, this bill would require a CAWS or commitment before a building permit may be issued. This bill would separate the existing requirement to obtain a CAWS or a commitment of service from the definition of a subdivision.

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### **SB 1339 regulatory costs; rulemaking; legislative ratification (Carroll)**

#### *Position – Oppose*

This bill would prohibit any proposed rule that will cost the state more than \$500,000 within five years from going into effect until the Legislature enacts legislation ratifying the proposed rule. An agency would be required to submit the proposed rule to the (newly created?) Administrative Rules Oversight Committee, and the Committee would submit the rule to the Legislature “as soon as practicable”. The agency is prohibited from submitting a finalized rule until the Legislature ratifies the rule, and the agency must terminate the proposed rule if the Legislature fails to ratify it within the same legislative session that it was submitted to the Committee.

This bill is troubling because of the wide-ranging impacts it could have on ADWR, ADEQ, and every other state agency. \$500,000 is not a lot of money, and most substantive agency rules would probably cost the state that amount within five years. Oversight of agency rulemaking should be handled through public stakeholder processes, and not through the political machinations of the legislature. Requiring agency rulemaking to be approved by the legislature effectively opens these agencies up to political influence and means that rules would likely be passed through that were politically advantageous rather than those that follow actual best practices.

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### **SB 1520 appropriation; Page water infrastructure project (Hatathlie)**

#### *Position – Monitor*

This bill would appropriate \$6 million from the State General Fund for Fiscal Year 2024-2025 to WIFA to be used for the City of Page in order to create an intake pump near Glen Canyon Dam.

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### **SB 1551 rural management areas (Mendez)**

#### *Position – Monitor*

This bill establishes a rural groundwater management framework called a Rural Management Area. These areas would be established by County Boards of Supervisors. This bill would require ADWR to analyze all groundwater basins not included within an AMA every five years and to notify counties if any of several criteria are met to allow for the establishment of these Management Areas.

This bill arguably has the same spirit as Senator Kerr’s SB 1221, but with some noticeable differences that make this bill more directly in-line with what was recommended by the Governor’s Water Policy Council. It is also notable that the Management Areas in this bill would be established by County Boards of Supervisors in conjunction with ADWR, and not through a regional popular vote.

**[SB 1606](#) residential lease communities; building permits (Wadsack)**

*Position – Support*

This bill would require that any residential lease community obtain either a Certificate of Assured Water Supply or a commitment of service from a Designated Provider before being issued a building permit. This bill also requires these developments to pay all relevant fees to the CAGRD. This bill appears to be a complete and more preferable version of HB 2025 and HB 2026.

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**SB 1650 subdivisions; assured water supply; lots (Bennett)**

*Position – Support*

This bill would require anyone who proposes to offer one or more lots, parcels, or fractional interests for sale or lease (regardless of the lease term) within an AMA to obtain a Certificate of Assured Water Supply (CAWS) or a commitment of service from a Designated Provider. In cases where approval of the plat is not required, this bill would require a CAWS or commitment of water service before a building permit may be issued. This bill would also require the plat to obtain a CAWS or commitment before it was approved for development, even in areas where approval is not required, which seems redundant. This bill would separate the existing requirement to obtain a CAWS or a commitment of service from the definition of a subdivision.

## MANAGEMENT BOARD INFORMATION SUMMARY

March 13, 2024

### Colorado River Negotiations

#### ANNUAL PLAN REFERENCE

##### Colorado River Transition

Assist, monitor, and coordinate the impacts of reduced Colorado River water to ensure our members' interests are forefront.

*Strategic Plan: Facilitate our Strength in Numbers, Collaborate and Advocate for Solutions, Safeguard Water Supplies, Prepare for Impacts of Drought & Shortage, Minimize Financial Impact*

#### SUMMARY

The Lower Basin States have submitted to the U.S. Bureau of Reclamation an alternative proposal for Reclamation to include in its draft Environmental Impact Statement for the Post 2026 operational guidelines for the Colorado River. The Lower Basin States proposal considers a new approach for managing the Colorado River by shifting from balancing Lake Powell and Lake Mead to viewing those reservoirs and others on the river as one holistic system. The Upper Basin States have submitted their own alternative proposal, which highlights the differences among the Colorado River Basin States.

AMWUA staff will provide an overview about the current Colorado River negotiations and the alternative proposals.

#### RECOMMENDATION

The AMWUA Management Board is requested to ask questions and discuss the Colorado River negotiations.

## MANAGEMENT BOARD

### INFORMATION SUMMARY

March 13, 2024

## Overview of Alternative Path to Designation

### ANNUAL PLAN REFERENCE

#### Sustainable Water Management

Promote efforts and policies that will sustain and safeguard our members' water resources and prepare for critical water management issues.

- Groundwater Management - Lead discussions and develop strategies to safeguard groundwater, including recovery's impact on the aquifer, post-2025 management issues in the AMAs, and legislation.
- Governor's Water Council – Actively protect and promote our members' perspectives.

*Strategic Plan: Facilitate our Strength in Numbers, Collaborate and Advocate for Solutions, Safeguard Water Supplies, Strengthen Groundwater Management, Pursue Post-2025 Water Policy*

### SUMMARY

Last year, the Governor's Water Policy Council recommended a framework for an Alternative Path to Designation (ADAWS). That recommendation included that the Governor should direct the Arizona Department of Water Resources (ADWR) to develop ADAWS through a rulemaking process.

ADWR shared draft rules for ADAWS with members of the Assured Water Supply Committee of the Governor's Water Policy Council. AMWUA staff reviewed those rules, discussed them with the Water Resources Advisory Group, and provided comments to ADWR. In reviewing the draft rules, AMWUA analyzed whether this alternative designation approach would provide long-term benefits to the aquifer as is intended in concept.

AMWUA staff will provide an overview of the ADAWS proposal and the draft rules.

### RECOMMENDATION

The AMWUA Management Board is encouraged to ask questions and discuss the Alternative Path to Designation.

## MANAGEMENT BOARD

### INFORMATION SUMMARY

March 13, 2024

## Printing of Updated Landscape Plants Publication

### ANNUAL PLAN REFERENCE

#### Conservation & Efficiency

Excel as a leader in water conservation by assisting our members with strategizing their program implementation and coordinating awareness about ongoing and new conservation efforts that enhance water resource supply sustainability.

- Sustain AMWUA's resource materials, including publications and websites that our members and the public utilize.
- Expand promotion and visibility of AMWUA members' materials and programs and elevate overall messaging about our water conservation efforts.

*Strategic Plan: Facilitate our Strength in Numbers, Educate – Excel as an Expert and Resource, Collaborate and Advocate for Solutions, Safeguard Water Supplies, Strengthen Groundwater Management, Prepare for Impacts of Drought & Shortage, Pursue Post-2025 Water Policy, Minimize Financial Impact, Interconnect Disciplines*

### SUMMARY

*Landscape Plants for the Arizona Desert* has been AMWUA's premier publication, with over two million copies in circulation. For over a year and a half, AMWUA has been working on updating this publication by expanding and updating the plants included, ensuring the information is consistent with our website, and utilizing new photographs. AMWUA staff and a technical advisory group from AMWUA cities have worked to ensure the information is accurate and up to date.

The updated *Landscape Plants for the Arizona Desert* book is targeted to go to print in April. This provides AMWUA and its members an opportunity to tout our collective conservation efforts to elevate low-water-use landscaping and demonstrate how we continue advancing water conservation. To effectively promote this new publication, we want to ensure all our members have copies available for residents. However, this may be problematic since our members will most likely not have funds in their current or upcoming fiscal year conservation budget to purchase copies of this publication.

To ensure the rollout of the updated *Landscape Plants for the Arizona Desert* is successful, AMWUA staff recommends that AMWUA print the first 150,000 copies and distribute them among its members according to the MAG population numbers used for AMWUA assessments. Members would still have the opportunity to pay for additional copies that they may want.

AMWUA would fund printing the first 150,000 copies, including taxes and delivery cost, by utilizing monies from the reserve fund. With the AMWUA Board's approval, the reserve fund can be used for expenses that are not ongoing operational ones, as well as professional services that fall outside of the normal operations of AMWUA. A one-time printing does fall outside of the AMWUA's ongoing operational cost.

Last year, the AMWUA Board approved utilizing no more than \$15,000 from the reserve fund to enlist the services of a consultant to improve the overall security of AMWUA's website. It is estimated that the printing, taxes, and delivery of 150,000 copies will be no more than \$165,000. After this expense, more than \$200,000 would remain in the reserve fund, which is an appropriate amount to maintain.

### **RECOMMENDATION**

The AMWUA Management Board is requested to recommend to the AMWUA Board of Directors to use no more than \$165,000 from the reserve fund to print and deliver the first 150,000 copies of the updated *Landscape Plants for the Arizona Desert* publication.