



June 26, 2020

Via E-mail: sscantlebury@azwater.gov

Tom Buschatzke, Director
Arizona Department of Water Resources
1110 W. Washington, Suite 310
Phoenix, AZ 85007

RE: SUBSTANTIVE POLICY STATEMENT: PRIORITY OF ISSUED ASSURED WATER SUPPLY DEMANDS IN HYDROLOGIC STUDIES FOR ASSURED WATER SUPPLY APPLICATIONS LOCATED IN THE PINAL ACTIVE MANAGEMENT AREA HYDROLOGIC MODEL AREA ("DRAFT SUBSTANTIVE POLICY STATEMENT")

Dear Director Buschatzke:

The Arizona Municipal Water Users Association ("AMWUA") submits the following comments on the Draft Substantive Policy Statement.

The Draft Substantive Policy Statement appears to be consistent with the Assured Water Supply ("AWS") Rules and would allow for a more orderly consideration of AWS applications. For these reasons, it may be beneficial not only for the Pinal Model area, but for all of the Active Management Areas ("AMAs").

The Department recognizes this possibility in the second complete paragraph on page two of the Draft Substantive Policy Statement, which states:

"The Department will consider, on a case-by-case basis and after gaining experience under this Substantive Policy Statement, whether to use the same priority system in other geographic areas of the state for which the applicable hydrologic groundwater model simulates significant unmet Assured or Adequate Water Supply demands."

AMWUA has three concerns about this sentence.

First, by using the phrase "case-by-case," it is unclear whether the Department is stating that it might apply the priority system to individual applications in an area, but not to all applications in that area. We think this result would be challenged as arbitrary.

Second, if the Department decides to apply the same priority system in other areas of the state, we believe the Department should amend this Draft Substantive Policy Statement to extend its reach, or adopt a new Substantive Policy Statement clearly stating the areas to which it applies.

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Third, the sentence limits the Department's consideration of using the priority system contained in the Draft Substantive Policy Statement in other areas of the state to those areas for which there is a hydrologic groundwater model that simulates significant unmet Assured or Adequate Water Supply demands. The Draft Substantive Policy Statement provides a logical priority system even in areas where there are not unmet demands.

In light of these concerns, AMWUA suggests that the referenced sentence be amended to read:

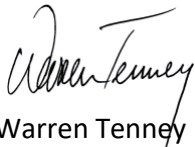
"The Department will consider, ~~on a case-by-case basis and~~ after gaining experience under this Substantive Policy Statement, whether to AMEND THIS SUBSTANTIVE POLICY STATEMENT OR ADOPT A NEW SUBSTANTIVE POLICY STATEMENT TO use the same priority system in OTHER AMAS or geographic areas of the state ~~for which the applicable hydrologic model simulates significant unmet Assured or Adequate Water supply demands.~~"

In addition to the concerns expressed above, AMWUA believes that the last sentence on page three of the Draft Substantive Policy Statement is ambiguous. It is our understanding that the sentence is intended to provide that an applicant for a Modification of a Designation may use the priority date of any previously issued Designation and the groundwater volume of its current Designation, up to the amount of groundwater in its current Designation. If our understanding is correct, we suggest the sentence be amended to read:

"For Designated providers with more than one previously issued Designation, the Designated provider may use the priority date and associated Designation groundwater volume of any previously issued Designation, ~~as long as that groundwater volume does not exceed UP~~ TO the volume of groundwater identified in the current Designation."

Thank you for your consideration of our comments and please let me know if you have any questions.

Sincerely,



Warren Tenney
Executive Director