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tomorrow, today.**

December 6, 2022

Arizona Department of Water Resources
Attn: Sharon Scantlebury
1110 W Washington St., Suite 310
Phoenix, Arizona 85007

Re: Draft Substantive Policy Statement Regarding Drought Volume Exemption

The Town of Gilbert is submitting comments on ADWR's draft substantive policy statement regarding the drought volume exemption. We appreciate the opportunity to provide these comments and are generally supportive of the policy. In addition to our comments below we are supportive of those submitted by the Arizona Municipal Water Users Association (AMAUA).

- **Section A - Late-Stage Drought Response Plan**

We are supportive of AMWUA's suggested revision to require "drought response measures" rather than linking the criteria to a specific drought response plan and stage. As noted in AMWUA's comments, each provider has a unique plan that is geared to their individual water system. Gilbert's drought response plan includes four stages with our first two stages focused on preserving our groundwater resources and maintaining our ability to operate sustainably while our later stages are focused on making sure we can physically meet demand. The drought volume exemption is specifically linked to the Assured Water Supply rules which are based on sustainable utility operations and preservation of groundwater supplies and therefore we believe that the criteria should not be linked to a late stage of a drought response plan but rather to specific actions toward water conservation as listed in the presentation. We fully support the intent of the policy that the utility should be increasing water conservation efforts beyond education and believe the list of example concrete steps conveys that purpose clearly.

- **Section C - Maximize beneficial use of all other supplies available**

The language in Section C seems to rely wholly on the available volume of other water supplies per the assured water supply in determining the maximum beneficial use. However, the available volume from other supplies can vary year to year and does not always match the volume in the assured water supply determination. Also, in the case of effluent included in a designation, the full volume may not yet be available. Gilbert would like to request that the maximum beneficial use be calculated based on historic average use as compared to historic average supply.

In addition, in many cases, 100% use of an alternative supply is limited not only by infrastructure but also water quality, operational, or permitting constraints. Therefore,

Gilbert would like some flexibility added to the language for the conditions under which the Department will grant a DVE on a case-by-case basis. A suggested revision could include the following conditions:

1. The applicant must provide a compelling justification for the inability to fully put the alternative supply to beneficial use; and
2. *The applicant must provide the Department with the percentage of that supply that they determine can feasibly be beneficially used; and*
3. The applicant must provide and implement a plan *to increase the beneficial use to the extent determined feasible in item 2* within a reasonable timeframe (3-5 years)”

- **Section F –Supplemental Groundwater**

Gilbert echoes the clarification request from AMWUA on supplemental groundwater and how it affects the drought volume policy. In addition, Gilbert would like clarification on how supplemental groundwater not included in the Groundwater Allowance can be used and reported to the Department.

- **Additional Clarification – DVE and Physical Availability**

How does an approved drought volume exemption get accounted for under the new physical availability carryover policy as described in A.A.C R12-15-710(G)? Please provide clarification on whether the DVE will be included in R12-15-710(G)(1) as part of the volume of groundwater withdrawn by the applicant since the previous designation of assured water supply order issuance date.

Thank you for your consideration of our suggestions to the policy. We appreciate the reasonable approach that ADWR has taken with this policy and its consistency with sound water management principles. Please reach out if you have questions regarding any of the provided comments, suggestions, or questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Lauren Hixson".

Lauren Hixson
Water Resources Manager