

Summary of Conversations with AZ DCP Steering Committee Delegates

October 2019 – March 2020

From October 2019 through March of 2020, Arizona Department of Water Resources (ADWR) Director Tom Buschatzke and Central Arizona Water Conservation District (CAWCD) General Manager Ted Cooke met with the Arizona LBDCP Steering Committee Delegates. They conducted 32 meetings to listen and gather the perspectives from the Delegates regarding the Arizona LBDCP Steering Committee process, Reclamation's pending Reconsultation process, and approaches to prepare Arizona to negotiate effectively in the Reconsultation process. The following is a summary of those 32 discussions. Tom and Ted provided information and framing questions for the discussions, shown in black Roman type below. The Delegate responses and comments are shown in blue *italic* type below.

Background

- DCP was built on top of the 2007 Guidelines, and expires at the same time as the Guidelines, at the end of 2026.
- The 2007 Guidelines were established through a formal National Environmental Policy Act of 1970 (NEPA) process that included the completion of an Environmental Impact Statement (EIS).
- The DCP was more of a negotiation among the Basin States and Reclamation regarding additional steps that were within the scope of the alternatives evaluated under the 2007 Guidelines EIS.
- Because the DCP was recently completed, many people expect that the "Reconsultation" under the 2007 Guidelines to establish the program that will follow will look a lot like DCP.
 - Since the 2007 Guidelines EIS will expire at the end of 2026, developing rules for post 2026 operations will require its own NEPA process, and it will therefore require an evaluation of alternatives like the 2007 Guidelines.
- The Reconsultation under the Guidelines will be more than a renegotiation. The 2007 Guidelines require the Secretary of the Interior to initiate a formal review of the effectiveness of the Guidelines no later than the end of 2020, and to do so in consultation with the Basin States.
 - There will be two parts to the Reconsultation: an evaluation first, followed by a formulation of the post-2026 program.

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- The interstate process involving the seven Basin States and Reclamation will be a formal NEPA process, but this process allows parties to submit proposals to Reclamation for the implementation.
 - *Reconsultation will resemble the process used for the 2007 Guidelines*
 - *Reconsultation is more of a negotiation, whereas DCP was more of an implementation plan. We need to have room for the AZ negotiators to negotiate. We can help that process by having a list of principles we can all support and understand that we will be briefed in some cases after the fact.*
 - *Reconsultation will take 4-5 years in order to be prepared to take a bill to Congress prior to 2026.*
 - *Reconsultation will not necessarily start from scratch, i.e., go back to what was in place before the 2007 Guidelines (LTOC), but will consider options and lessons learned from the Guidelines and DCP.*
 - *The magnitude of reductions for Arizona post-2026 and the trigger points that create those reductions are up for negotiation.*
 - *To address perceptions that Tribes were not involved enough in the formulation of the 2007 Guidelines, it is expected that there will be multiple opportunities for tribal engagement at the state level and with Reclamation.*
 - *There may be separate processes, especially for tribes, e.g., involvement in the intra-AZ process as well as a Tribal process initiated by Reclamation.*
 - *It is recognized that all AZ tribes are not the same.*
 - *Reclamation began the 7.D review a year earlier than required, but most of 2020 will be taken up in this process.*
 - *Due to the time the Reconsultation will take, a robust process must be put in place to allow for potential changes in key players at the federal and state level.*
 - *There are likely to be side-by-side parallel discussions both within Arizona and at the Basin level.*
 - *We expect alternatives to be proposed by States, tribes, NGOs, etc., or Reclamation may create its own alternatives or proposals.*

Next Steps in Arizona

- Tom Buschatzke and Ted Cooke are meeting with all of the Arizona LBDCP Delegates individually.
- This will take place between early October and sometime in the spring of 2020.
 - The reason for starting now to take advantage of the momentum created by the work of the Steering Committee.

Black Roman Type = Buschatzke/Cooke Talking Points

Blue Italic Type = Summary of conversations with Delegates

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- Arizona is stronger together, and we intend to continue the collaboration that made DCP successful.
- The purpose of these discussions is to gather input to help develop Arizona's position on the Reconsultation and be prepared for when Reclamation initiates its formal process sometime in 2020.
- Arizona will coordinate with the other Basin States with the goal of preparing a joint proposal for submission during the NEPA process for Reconsultation. If necessary, Arizona may prepare its own proposal.
 - Other parties may prepare proposals as well (e.g., tribes, NGOs)
 - Excerpt from the 2007 Guidelines Record of Decision (ROD):

“Beginning no later than December 31, 2020, the Secretary shall initiate a formal review for purposes of evaluating the effectiveness of these guidelines. The Secretary shall consult with the Basin States in initiating this review.”
 - *Successful completion of commitments made as part of the Arizona Implementation Plan (AZ DCP) will inspire confidence in our ability to work through Reconsultation.*
 - *The Arizona Implementation Plan (AZ DCP) process was not perfect, but compromises were made and the process worked.*
 - *Fix what is not working; improve what is working.*
 - *There are many important water issues being worked on in Arizona in multiple venues, but the Reconsultation needs to focus on management of the Colorado River.*
 - *It would be good to have clear criteria for success, a general timeline and goals and/or milestones for Reconsultation. Deadlines help to drive the process.*

The Reclamation Process

- Currently Reclamation is indicating that it intends to focus on initiating a process in late 2020 consistent with the Record of Decision (ROD) for the 2007 Guidelines.
- Reclamation also has shared the perspective that it intends to “observe and learn” from the implementation of the Guidelines and the DCP.

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- The Reclamation led process will be a NEPA-based process, similar to the '07 Guidelines process, including a thorough environmental evaluation, which may take several years.
- When taking into account the need for to obtain federal legislation, the amount of time this whole process will take is approximately equal to the amount of time we have.
 - *Recognizing that Reclamation has relationships with the Basin States, tribes, NGOs and others that are important, maintaining Arizona's strong relationship with Reclamation will be an essential factor for success.*
 - *For 7.D Review, Reclamation should focus on "here's what was done and here's what happened," rather than "this was good or bad" or "we should have done something else instead." Those are topics for Reconsultation, not 7.D. Review.*
 - *Reclamation has demonstrated its commitment to a collaborative process with stakeholder as evidenced by the development of the 2007 Guidelines and the Drought Contingency Plan.*

What we need from you

- What are the important "guiding principles" that may best inform the Arizona position in formulating a proposal?
 - *ADWR and CAWCD must continue to work together as a team.*
 - *Ongoing involvement by AZ legislative leaders is crucial.*
 - *Arizona cannot agree to count tributaries as part of AZ apportionment.*
 - *Underground storage of Colorado River and CAP water is a beneficial use.*
 - *Mexico must be part of the discussion and part of the solution.*
 - *Keep Arizona's relationship with Mexico positive.*
 - *Compact*
 - *Contractual rights and obligations and the AZ priority system will be preserved, but voluntary agreements to share resources between users, as was done in the Arizona Implementation Plan (AZ DCP) are encouraged.*
 - *Responsibility for solving the structural deficit belongs to the entire Lower Basin and Mexico, not just Arizona.*
 - *We need an "adjustable" plan with flexibility and adaptability so that changes can be made without having to redo in the middle.*

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- *There will be differences among UB and LB approaches, as well as Mexico and U.S., just as there are differences among sectors in AZ. We will need to find compromise and tradeoffs.*
- What are some of the key issues that you believe need to be addressed in the Reconsultation that are important to Arizona?
 - *There are competing perspectives regarding mitigation beyond 2026*
 - *No mitigation beyond 2026.*
 - *Not having mitigation post-2026 will be a difficult conversation, but may be a reality.*
 - *No mitigation may be a hard sell.*
 - *Subsidization/mitigation gets us further away from where we need to be and just postpones the inevitable.*
 - *Need to balance between the incentives to create ICS vs. the impacts of recovering ICS, especially at lower levels in Lake Mead*
 - *ICS should stay in Lake Mead except for extraordinary circumstances.*
 - *We may have gone too far in DCP with flexibility on removing ICS below 1075. If ICS is expanded or added to, Arizona needs more protection against any added risk.*
 - *System conservation is a better tool than ICS, because it doesn't come out of Lake Mead.*
 - *The structural deficit must be addressed to some degree.*
 - *A better understanding of how Arizona's junior priority will impact reductions of Colorado River supplies may lead to a more realistic perception of what others need to bring to the table.*
 - *Length of the next Guidelines must balance between a minimum term to justify the effort, but not so long to introduce the uncertainty of being "stuck" with something for a long time.*
 - *CAP Ag Pool ought to receive available water in a non-shortage (above Tier Zero) year.*
 - *Some tribes want to lease water. Some tribes want to lease currently unused water. Some tribes want to lease water to California, but do so in a way that will benefit AZ. However, the state of Arizona is opposed to lease or transfer of unused water, and the state of Arizona is opposed to lease or transfer of any portion of Arizona entitlements outside of Arizona.*
 - *Ten Tribes coalition wants some things to which we cannot agree.*

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- *The Ten Tribes Coalition does not represent all tribes in Arizona, and the Ten Tribes platform may include some issues that Arizona cannot support or may not be appropriate.*
 - *Some higher priority water users want recognition for amounts of unused contractual volume that is being used by others.*
 - *Is it preferable to lease higher priority on-River water and use it than to let it fall through the priority system?*
 - *Some parties are interested in a dedicated source of water for environmental purposes.*
 - *Several commenters noted that more trust between stakeholders must be built.*
- Understanding that Tom and Ted will begin the intra-Arizona process by meeting with each of the Steering Committee Delegates, who else in Arizona do you believe should be involved in this discussion?
 - *Overall, very well-rounded Steering Committee makeup.*
 - *Nobody needs to be added; too big already.*
 - *I don't see any gaps in the Steering Committee.*
 - *Don't need to downsize.*
 - *Maybe more rural representation outside of the CR community and CAP service area (NRDCs?) to bring more expertise in augmenting supplies and recharge.*
 - *Pinal county urban representation (Supervisor Miller?).*
 - *Some people think certain sectors are over or under represented. However, if you change one sector (increase or decrease), every other sector will think they need a change, too.*
 - *We may change out our delegate.*
 - *Make appointments to Steering Committee, working groups, etc. by title/function rather than name, as there will be turnover.*
 - What are your thoughts about how Arizona can have a transparent, inclusive process without giving away our negotiating strategy?
 - *The Steering Committee process was good. People are still actively working together.*
 - *It's important to hear everyone's expectations up front. A messy process isn't always a bad process if people can have input and solutions can come out of it.*

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- *The breakout group process to evaluate ideas and workout issues worked well. There was good idea creation there.*
 - *All the major parts of DCP happened in the work groups.*
 - *There is a trade-off between getting work done in the work groups and transparency at the Steering Committee level.*
 - *A public process makes it tough for people to stand up and say “you’re wrong.”*
 - *Ad hoc groups worked well. Delegates did a good job of disseminating information back and forth to sector constituents and Steering Committee.*
 - *The work groups had a lot of discussion and progress, but it was relatively quiet on many topics in the Steering Committee. How can we have more transparency so people can speak freely?*
 - *Some “deals” were made at the work groups and brought to the Steering Committee as a baked cake. We realize there will need to be some non-public discussions so AZ does not give its strategy away to other parties.*
- The process within Arizona will accommodate the involvement of many parties, similar to the way AZ DCP was conducted. In addition, we anticipate multiple levels of participation within Arizona (e.g., Steering Committee, work groups on specific topics). The more formal Basin States process will necessarily include a much smaller number of people from each state to work with the other states to develop a comprehensive joint proposal. What criteria should Tom and Ted consider to outline the levels of participation in Arizona?
 - *Tom and Ted are a good negotiating team for Arizona, with best ability to drive the process and speak for the stakeholders.*
 - *Very few of the Steering Committee have been at the table with other Basin States. We need to trust those who have (Tom/Ted and possibly some others).*
 - *Need large AZ water users with Tom and Ted at the Basin States negotiating table, but not second-guessing Tom and Ted.*
 - *Guiding Principles can help support the negotiation process.*
 - *We also need a good mid-level advisory group between negotiating team and Steering Committee.*
 - *Can there be a separate legal advisory group?*
 - *Could we have a sub-committee for each sector (on-river, CAP subcontractors, tribes, ag, NGOs, developers, business/electeds) and each have their own public meetings?*
 - *What is the role of the AZ Congressional delegation in Reconsultation, if any?*