CAGRD AND THE ASSURED WATER SUPPLY PROGRAM DRAFT

ISSUE STATEMENT

The Assured Water Supply Program and the CAGRD may not provide sufficient requirements nor inducements for certain communities and the water providers that serve them to reduce their reliance on groundwater and transition to the use of long-term renewable supplies.

BACKGROUND

- The Assured Water Supply (AWS) program was designed to sustain the state's economic health by preserving groundwater resources and promoting long-term water supply planning.[1] The AWS Rules were developed with stakeholder input over many years, ultimately adopted in 1995[2], and subsequently modified on several occasions. The AWS program provides consumer and economic protection by requiring a demonstration of a 100-year water supply to serve a new development before lots can be sold in the state's active management areas (AMAs).

- An AWS can be demonstrated through either a Designation of AWS (DAWS) or Certificate of AWS (CAWS).
    - A DAWS may be issued to a water provider for its service area located within the AMAs, and must show that growth added during the designation term can be accommodated for 100 years. A DAWS must be reviewed at least every 15 years and has an expiration date before which a modification (renewal) can be applied for.
    - A CAWS may be issued to the landowner of a subdivision located within an AMA in the absence of a Designated provider. The applicant for a CAWS must show that there is sufficient water to meet the projected subdivision demand at buildout as platted for 100 years and that the water supply meets all AWS criteria.[3] Unlike a DAWS, a CAWS is not typically reevaluated.[4]

- Currently, both Certificates and Designations of AWS can be issued entirely on the basis of groundwater that has been demonstrated to meet the AWS requirements, including physical availability for 100 years and consistency with the management goal of the AMA.
    - In the Phoenix, Pinal and Tucson AMAs, consistency with the management goal can be satisfied by enrollment as a member of the Central Arizona Groundwater Replenishment

[1] https://new.azwater.gov/aaws
[2] The 1995 rules did not include provisions specific to consistency with the management goal of the Santa Cruz Active Management Area (SCAMA), which was created by the Legislature in 1994 (A.R.S. § 45-411.04). AWS rules have not yet been modified to address consistency with the management goal of the SCAMA, and it is not addressed in this Issue Brief.
[3] Citation for AWS Criteria.
[4] A Certificate is issued once and does not expire like a Designation. ADWR can revoke a CAWS if the water supply no longer meets the AWS criteria and certain other requirements are met, including that no lots have been sold. If a property changes ownership, ADWR could reevaluate its CAWS, though this action is not typical.

District (CAGRD). The CAGRD replenishes *excess* groundwater[5] pumped by its members, reducing the amount of unreplenished withdrawals. The CAGRD Plan of Operation must conform with the management goals of each AMA in its service area and requires approval every ten years from the Director of ADWR..
    - This process allows CAGRD members to use groundwater upfront, while the CAGRD must develop and replenish supplies to directly offset the volume of excess groundwater withdrawn in an AMA by its members.

- The CAGRD was designed as a mechanism to allow new development lacking a CAP M&I subcontract and/or access to sufficient infrastructure to proceed on groundwater. Without the CAGRD, some developers and water providers would not be able to meet the AWS program requirements.

- The CAGRD serves two types of members:
    - Individual subdivisions known as member lands (MLs). The developer of a ML subdivision may elect to enroll the subdivision in CAGRD if it has access to 100 years of groundwater and insufficient access to renewable supplies.
    - Cities, towns, districts, or water companies that enroll their entire water service area are known as member service areas (MSAs). A municipal provider may elect to enroll as an MSA in order to obtain a DAWS if any of its 100 year water portfolio includes mined groundwater requiring replenishment.

- The CAGRD is tasked with replenishing excess groundwater within three years of its pumping by its members,[6] which requires the CAGRD to continually develop replenishment supplies.
    - CAGRD replenishment within the same AMA is required but in practice it often occurs remotely to where the members pumping occurs (*see Hydrologic Disconnect Issue Brief*).
    - The CAGRD does not need to prove the upfront development of a 100-year supply to replenish excess groundwater. The CAGRD has the ability to utilize supplies of less than 100-years to satisfy its Plan of Operation requirement. This differs from the AWS requirements for obtaining and maintaining a CAWS or DAWS in which the 100-year supplies must be identified and in-hand. This arrangement was viewed in part to reduce competition between CAGRD and other entities, including its own members trying to acquire long-term supplies for AWS designations.

- Under the AWS program, there is no requirement for CAGRD members to reduce their dependence on groundwater over time.

- When the CAGRD was formed, many in the water community viewed its services as providing a 'bridge' to allow the water provider (the MSA water provider or the provider serving MLs) time to develop its own long-term renewable supplies and the necessary infrastructure to reduce its reliance on groundwater, and potentially de-enroll or no longer require CAGRD replenishment services. This is reflected in the Phoenix AMA 3rd Management Plan: "The availability of the CAGRD as a mechanism

[5] "Excess groundwater" is any amount of pumped groundwater beyond what is permitted by the AWS rules
[6] ARS §48-3771.A

to demonstrate the use of renewable supplies allows small cities and private water companies to grow and establish sufficient demand and tax base to develop renewable supply infrastructure."[7]

ISSUE DESCRIPTION

- To strengthen groundwater management after 2025, the requirements and incentives to reduce groundwater use and instead rely on long-term renewable supplies should be reassessed.

- Under the current regulatory structure, groundwater will continue to be utilized to meet the demands of new growth. Physical availability[8] is considered by many as a sufficient, if not the ultimate, limiter of issuing determinations of AWS.
    - Given recent concerns regarding localized groundwater level declines in some AMA areas (*see Hydrologic Disconnect Issue Brief*) as well as the increasing uncertainty of future availability of renewable supplies, concerns remain whether this current regulatory approach still provides adequate consumer protection for homeowners and assures long-term management of AMA goals.
    - Allowing physical availability to limit the issuance of certificates or designations has been a problematic approach as currently seen in the Pinal AMA.
    - The physical availability of groundwater for CAWS-reliant developments is typically not reevaluated by ADWR, although changes in projected demand may ultimately be reflected in updated modeling. This differs from a designated provider, which may see the physical availability of groundwater in its DAWS reduced during its required review.[9]

- With no required alternative to groundwater for these CAWS or DAWS, the CAGRD's continual reliance on *future* supplies for replenishment may be unsustainable.
    - In its 10-year Plan of Operation, CAGRD is required to show replenishment supplies in hand to meet replenishment obligations for 20 years as well as identify potentially available supplies for the subsequent 80 years.

- Under existing laws, the only mechanism to limit enrollment in CAGRD is for the Director of ADWR to find the CAGRD Plan of Operation not in accordance with the management goal of an Active Management Area.
    - Such a decision is seen as a "nuclear option" and could be problematic for the State because a Plan of Operation that is inconsistent with the management goal would impose a moratorium on all CAGRD enrollment throughout the AMA and all designated providers whose DAWS rely on CAGRD membership would lose their DAWS, pursuant to A.R.S. § 45-576.06(A).

[7] Phoenix AMA Third Management Plan, p. 5-6.
[8] A.A.C. R12-15-716
[9] If evidence (e.g., updated modeling) shows that the previously approved groundwater volume is no longer physically available, ADWR is not able to issue a modified DAWS including the previously approved groundwater volume.

- Options to facilitate CAGRD members to move away from the replenishment model by using less groundwater vary between CAWS and DAWS and therefore also between MLs and MSAs. The main incentive for both may be the cost of CAGRD replenishment services.
    - For Designated providers, there are incentives that serve to motivate the water provider to seek their own renewable supplies, invest in infrastructure, and lessen their groundwater reliance. If the provider is enrolled as an MSA in the CAGRD, there are direct financial incentives and a path to de-enroll, which has been done before (City of Peoria, for example).
    - For Certificated subdivisions, there are fewer incentives to reduce groundwater reliance. The path for MLs is less straightforward because there are more entities involved than in the case of MSAs and the reliance on the CAGRD lessens the need for the residents, water provider, and community to collectively pursue a long-term alternative water supply plan for those residents. After development, the financial responsibility of CAGRD membership is borne by the ML homeowner, not the water provider serving MLs. CAGRD replenishment costs for MLs are borne by the homeowner and paid via the county assessor's office, creating a disconnect from water use and the relationship with the water provider via the utility bill. The water provider serving MLs has little or no incentive under the AWS Program to obtain renewable supplies. Homeowners who may seek to reduce CAGRD replenishment costs may not have the resources to identify and acquire renewable supplies on behalf of the water provider. Further, de-enrollment from CAGRD is not possible if the development has been built, unless the MLs are incorporated and served by a Designated provider.
    - CAGRD's current rates are bundled and assessed on the volume of reported excess groundwater. As such, temporary avoidance of CAGRD services by some entities through the use of short-term supplies like long-term storage credits (LTSCs) or extinguishment credits (ECs) creates inequities among CAGRD members by redistributing fixed costs over fewer members.

- Water providers face obstacles in their ability to acquire renewable water supplies and become Designated on their own or de-enroll from CAGRD.
    - There are 242 undesignated water providers in the three AMAs, 74 of which serve CAGRD MLs.
    - The quantity of renewable supplies realistically available in the future is a concern for water providers and the CAGRD.
    - Water providers can find themselves in competition with the CAGRD for the same supplies.
        - In acquiring water to meet its obligation, CAGRD has outbid water providers seeking water supplies to reduce their dependence on the CAGRD.
    - The recent effort by the Town of Queen Creek to acquire renewable supplies to obtain a DAWS and also incorporate MLs is a positive development, but seems to be an exceptional case. Understanding their challenges and motivations could inform this issue.
        - The Queen Creek situation also reveals the challenges for both municipal providers and the CAGRD to acquire renewable supplies. For example, ADWR only recommended approximately half of what Queen Creek requested and the CAGRD has faced challenges in acquiring supplies from on-River.

- There is an insufficient 'bridge' of requirements or inducements from the AWS Program to motivate providers to become designated on their own. Since 1999, no new large providers have become designated in the Phoenix AMA, for example. Understanding the obstacles to Buckeye, Queen Creek and others could inform this issue.
- Additional regulatory and financial obstacles?