

SUBSTANTIVE POLICY STATEMENT

This Substantive Policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

TG1. ADWR TRIBAL GOVERNMENT POLICY

Level One: Arizona Department of Water Resources
Originator: Herbert R. Guenther, Director
Contact: Patricia Hill, Ombudsman
(602) 71-8429
Date: April 18, 2006

PURPOSE

This policy establishes the basic principles governing the Arizona Department of Water Resources' (ADWR) relations with Indian tribal governments within the State of Arizona.

INTRODUCTION

ADWR works to secure long-term dependable water supplies for Arizona's communities. The Department:

- administers and enforces Arizona's groundwater code, and surface water rights laws (except those related to water quality);
- negotiates with external political entities to protect Arizona's Colorado River water supply;
- oversees the use of surface and groundwater resources under state jurisdiction, and
- represents Arizona in discussions of water rights with the federal government.

In addition, the Department explores methods of augmenting water supplies to meet future demands, and develops policies that promote conservation and equitable distribution of water. The Department also inspects dams and participates in flood control planning to prevent property damage, personal injury and loss of life. In support of these activities, ADWR collects and analyzes data on water levels, GPS and gravimetric data, and water-quality characteristics. ADWR is not a municipal water provider.

There are 21 Indian tribal governments within the State of Arizona that have jurisdiction over approximately 28% of the land base. The State of Arizona and Indian tribes share

the use of common aquifers and streams. While having some differences in how common waters should be managed the coordination of the management of water resources benefits both tribal and state users of those waters.

POLICY

ADWR recognizes the sovereignty of tribal governments and their jurisdiction over all lands within the boundaries of tribal reservations subject to the will of the U.S. Congress. Consistent with Article 20, Part 4 of the Arizona State Constitution (A.R.S. Const. Art. 20, Pt. 4), ADWR also recognizes that Indian reservations remain politically and governmentally part of the state.

ADWR recognizes that the federal government has the primary responsibility for assisting tribal governments to regulate and manage water resources within Indian reservations.

ADWR supports the strengthening of tribal capacity for water resource management and regulation. ADWR's support to tribes will be provided in the interest of the state and will not be used as the basis for interference with tribal sovereignty.

ADWR is committed to developing cooperative relationships with tribes, and will respect the concerns of tribes.

RESPONSIBILITY

Responsibility for the enforcement of this policy lies with the Office of the Director.

PROCEDURES

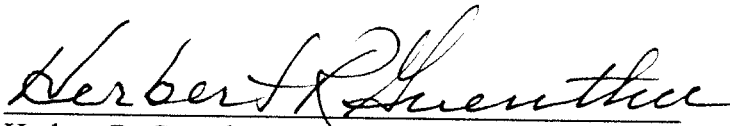
1. ADWR will assist tribal governments to develop water resource programs by providing technical assistance, sharing data, conducting joint tribal-state projects and programs, and cooperatively resolving issues to the extent resources allow.
2. ADWR will not conduct any activities within an Indian reservation without first receiving permission from the appropriate tribal official. ADWR employees are encouraged to seek written permission and not rely on verbal assurances.
3. ADWR will enter into Intergovernmental Agreements (IGA) or Memoranda of Understanding (MOU) when considered mutually appropriate by ADWR and an Indian tribal government. This is especially appropriate in any grant programs administered by ADWR.
4. ADWR will open its training programs to tribal officials and tribal staff whenever possible. In particular, technical training involving technical management tools, such as remote sensing, modeling, and groundwater level measurements, will assist all water resource managers.
5. ADWR will provide notification to affected Indian tribes about policy or management decisions that may affect them.

6. ADWR staff will relay Indian tribal issues, including requests from tribes for technical assistance, to the appropriate assistant director(s) as quickly as possible.

7. ADWR staff will obtain approval from their assistant director before initiating contacts with tribes. This does not apply to referral of complaints to the tribes or contact on ongoing issues previously approved by the assistant directors.

APPROVED BY:

Arizona Department of Water Resources:

A handwritten signature in cursive script, reading "Herbert R. Guenther". The signature is written in dark ink and is positioned above a horizontal line.

Herbert R. Guenther

Director

Issued: 18 April, 2006