February 17, 2022

Thomas Buschatzke, Director
Arizona Department of Water Resources
1110 West Washington Street, Suite 310
Phoenix, AZ 85007

RE: 5MP Proposed rule change 3-801 “Storage & Recovery Siting Criteria”

Dear Director Buschatzke:

The City of Chandler appreciates the opportunity to comment on the proposed regulatory language regarding recharge and recovery requirements in the Fifth Management Plan (5MP). This letter is in response to the Department’s request for stakeholder feedback on the proposed rule change regarding recovery siting criteria in areas of shallow water levels (3-801(B)(1a)).

We appreciate the Department’s efforts to solicit stakeholder feedback on the proposed new language. However, we are disappointed the draft 5MP includes concerning new language restricting recovery in areas of shallow depth to water. With nearly a dozen letters and questionnaire responses indicating a high level of stakeholder concern over this policy change, we had hoped the Department would provide additional information, engage stakeholders, publish a methodology, respond to questions and be transparent about the impacts, before proceeding with this rule change.

This is a significant policy decision, not a minor technical correction to address problematic language from the 4th Management Plan (4MP). The new language will have far-reaching implications. Stakeholders are still waiting for the Department to provide an analysis of impacted parties, identify the geographic areas affected and schedule follow up meetings to respond to concerns raised. The current draft 5MP language adds very significant changes to the previous language. While we understand the Department’s intention to revise previously vague language from the 4MP, this new language is concerning.

The City of Chandler respectfully requests the Director remove the new language added to the 5MP which relates to recovery restrictions in areas of shallow water levels.
The City of Chandler has made significant infrastructure investments to follow best practices in water management related to hydrologic disconnect. We mitigate our pumping by recharging our surface water supplies in the areas where we pump groundwater. Chandler has invested in four recharge facilities within our service area and two regional recharge facilities operated by SRP. We are also over two years into design phase of a new facility, intended to move additional surface water supplies into our service area for recharge. The new draft SMP language, which defines shallow water at 50 ft below land surface, could jeopardize our ability to utilize our thirty potable distribution wells to recover water stored at our six recharge facilities.

We are concerned this new language could create considerable infrastructure challenges for municipal providers who have already invested in recharge facilities and recovery wells. For example, recharge basins in Chandler's Veteran's Oasis Park provide water storage benefits for the City, recreational benefits for the community, and offer wetlands habitat for wildlife. This proposed SMP language could restrict our ability to recover water stored at this location and result in hard choices between creating stranded credits or eliminating water deliveries to this multi-benefit facility. Creating stranded credits will unfortunately result in increased groundwater pumping and negatively impact safe-yield goals in the Phoenix AMA.

There are many existing Underground Storage Facility (USF) permits where the Director has determined the current permitted volume of storage is hydrologically feasible and does not cause unreasonable harm to the surrounding land and water users. The Director has already made this determination at the time the permits were issued, so it is unclear what problem this SMP recovery siting language is attempting to address. It is concerning that the Department selected a new definition for shallow water without any hydrologic modeling or analysis to determine whether applying a Pima County definition is appropriate in the Phoenix AMA. This definition contradicts currently allowable recharge volumes, which could be as high as 15 ft below land surface, under approved USF permits.

While we understand the Department's desire to restrict recharge in areas of shallow water, the new definition ignores the operational realities of municipal distribution systems. Restricting the use of existing infrastructure to mitigate surface water shortages negatively impacts Chandler, and many others, just as we head into a time of uncertainty on the Colorado River and we face increasingly significant CAP supply reductions.

There are many areas in the Phoenix AMA where shallow water is not a problem and restricting recovery in those areas is not appropriate. What issue is this rule intended to address? The Department has not provided a map of the geographic areas where USFs overlap with shallow water and it is inappropriate to pursue new regulatory language without conducting an analysis of the impacts and providing transparency for impacted stakeholders. The Department also has
not conducted an adequate stakeholder outreach process and many impacted stakeholders are currently unaware of this new language.

During the stakeholder meeting held in July 2021, ADWR staff indicated a willingness to remove this proposed language if it was not supported by stakeholders. However, despite stakeholder concerns, the language remains in the draft 5MP.

If the Department continues to pursue this rule change regarding recovery siting criteria (section 3-801(B)(1a)), we would appreciate the following actions:

1. Conduct and publish an analysis of possible unintended consequences, prior to promulgation of the 5MP.
2. Provide a list/map of areas where water levels above 50 feet intersect with the maximum AOI of existing USF permits, prior to promulgation of the 5MP.
3. Articulate a proposed methodology for implementing this policy. The methodology should exclude water levels from USF monitor wells and areas of shallow water due to USF mounding. The methodology should not utilize the “Maximum AOI” boundary of a USF permit. The permitted Maximum AOI includes expansive geographic areas and is not appropriate or feasible from an enforcement perspective. Any proposed methodology should be shared with stakeholders prior to promulgation of the 5MP.
4. Modify the definition of “shallow water levels” to remove the arbitrary 50 ft definition and create a new definition which involves a full stakeholder process and excludes wetlands, riparian areas, and USFs with shallow water levels.
5. Modify the 5MP language to clarify the Department’s intentions for enforcement of this rule. For example, will this policy only impact recovery of LTSCs or will it also restrict recovery that occurs as annual storage and recovery? What period of record will used to make this determination?
6. Convene a technical advisory group, comprised of experts, to develop maps delineating areas where shallow water could cause water management concerns.

If you have any questions, please contact me at 480-782-3585.

Sincerely,

Gregg Capps
Utility Resource Manager
Public Works & Utilities Department
City of Chandler

cc: John Knudson, Public Works & Utilities Director, City of Chandler
Simone Kjolsrud, Water Resource Advisor, City of Chandler