



ARIZONA DEPARTMENT OF WATER RESOURCES

REPORT ON ACTIVITIES WITH INDIAN TRIBES PURSUANT TO TRIBAL GOVERNMENT POLICY (July 1, 2017 through June 30, 2018)

Agency Overview

The Arizona Department of Water Resources (ADWR) was created by the 1980 Groundwater Code to manage the water resources of Arizona. ADWR administers state laws regarding water and it works to develop public policies which promote efficient use and equitable allocation of available water supplies. To ensure long-term water supplies for Arizona, ADWR oversees the use of surface water, groundwater and Colorado River water under state jurisdiction and represents the state's interests in interstate and federal issues, including participation in Indian water rights settlement discussions.

Tribal Liaison and Tribal Government Consultation Policy

In 2006, ADWR adopted a substantive policy statement (ADWR Tribal Government Policy) that established the basic principles governing the relations of ADWR with the 22 federally recognized tribes within the state and established a tribal liaison function within ADWR. The purpose of the policy was to establish the basic principles that govern ADWR interactions with Arizona tribes. As policy, ADWR recognized the sovereignty of tribal governments and established procedures. The ADWR Tribal Government Policy can be accessed at: <http://www.azwater.gov/AzDWR/Legal/LawsRulesPolicies/SubstantivePolicyStatement.htm>.

ADWR's primary function with respect to tribal entities under the policy statement is to provide technical assistance and information regarding water resources management and policy. The table below summarizes ADWR's activities that are related to the technical assistance procedures listed in the substantive policy statement for fiscal year 2018.

Procedure in Tribal Government Policy	Activity and Performance Measures
<p>ADWR will assist tribal governments by providing technical assistance, sharing data, conducting joint tribal-state projects and programs and cooperatively resolving issues</p>	<ul style="list-style-type: none"> • ADWR facilitates the work of the State Drought Monitoring Technical Committee (MTC) that gathers Arizona drought, climate and weather information and disseminates that data. ADWR, in coordination with MTC publishes a monthly Drought Status Report that is sent to tribal governments. The MTC also coordinates with tribal hydrologists to obtain and share local drought condition information. • Sixteen tribal governments and the Inter tribal Council receive notices regarding meetings of the Governor’s Drought Interagency Coordinating Group which provides drought declaration recommendations to the Governor. • The Havasupai Tribe, the Hopi Tribe, the Navajo Nation, and ADWR are participants in the Coconino Plateau Watershed Partnership (CPWP). The tribes and ADWR attend monthly partnership meetings and have the opportunity to work cooperatively to share information and resources. ADWR is providing technical support to the CPWP on projects being completed under a WaterSMART grant that will provide resource and sustainability information to tribal participants.
<p>ADWR will not conduct any activities within an Indian reservation without first receiving permission from the appropriate tribal official.</p>	<p>ADWR Director, Tom Buschatzke, and Assistant Director, Clint Chandler, joined Governor Doug Ducey in attending the inauguration ceremony for Governor Stephen Roe Lewis on January 20, 2018, at the invitation of the Gila River Indian Community (Community).</p> <p>ADWR is engaged with the Community regarding underground storage activities through an intergovernmental agreement. On February 14, 2018 the Department issued the permit for the Gila River Indian Community Olberg Dam Underground Storage Facility (full scale). The Department had worked with the Community throughout the permitting process to gather necessary information and data to meet Recharge program permitting requirements. The facility is a managed facility that covers about six miles of the Gila River channel. The facility is permitted to store up to 20,000 ac/ft per year of CAP water.</p>

	<p>On December 28, 2016, ADWR's Adjudications Program was ordered by the Special Master, Susan Ward Harris, of Maricopa County Superior Court to prepare and file a Hydrographic Survey Report (HSR) for the Navajo Nation for the general stream adjudication of all rights to use water in the Little Colorado River System and Source (LCR Adjudication). ADWR requested authorization from the Navajo Nation (which was granted on August 30, 2018) for access to conduct the field work necessary to complete the HSR. Further communications and coordination of those site visits were made through the Branch Manager of the Navajo Nation's Water Management Branch within the Department of Water Resources, as instructed by the Navajo Nation's Attorney within the Water Rights Unit of the Navajo Nation Department of Justice (via e-mail on August 31, 2018). Site visits occurred in October and November 2018.</p>
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WATER SETTLEMENTS

This activity of ADWR does not fall within the ADWR Tribal Government Policy, but is provided as additional information regarding ADWR participation with tribal entities.

Havasupai Tribe

During the fiscal year, ADWR met with representatives of the Havasupai Tribe to discuss initiating negotiations for a settlement of the Tribe's water rights claims. On August 9, 2017, ADWR sent a letter to the Secretary of the Interior expressing support for the Tribe's request for the appointment of a Federal negotiating team for the Tribe. By letter dated April 27, 2018, the Department of the Interior notified ADWR that a Federal Indian Water Rights Negotiation Team was appointed to negotiate a comprehensive settlement of the Tribe's water rights claims. ADWR anticipates that settlement discussions will occur during the next fiscal year and will include the Tribe, ADWR, the United States and various State water users. The negotiations will be confidential.

Hualapai Tribe

In recent years, ADWR has been active in negotiations regarding settlement of the Hualapai Tribe's water rights claims in Arizona. In December 2014, the Bill Williams River Water Rights Settlement Act ("Act") was passed by Congress and signed into law by President Obama. The Act authorized and approved two water rights settlement agreements between the Hualapai Tribe, the United States, Freeport Minerals Corporation, the Arizona Game and Fish Department and, in a limited capacity, ADWR. These settlement agreements became enforceable in December 2015. While these settlement agreements do not settle the Tribe's water rights claims for its main reservation, they settle the Tribe's claims in the Bill Williams River watershed and facilitate a future settlement of the Tribe's claims for its main reservation, including its claims to the Colorado River. For that reason, these settlements are considered the first phase of a comprehensive settlement of the Hualapai Tribe's water right claims.

Negotiations for a comprehensive settlement of all the Hualapai Tribe's water rights claims in Arizona began in 2011 and included the Tribe, the United States, ADWR and several state water users. In July 2016, the Hualapai Tribe, ADWR and the other state parties agreed to the terms of a comprehensive settlement. Federal legislation approving and authorizing the settlement was introduced in the Senate by Senator Flake and Senator McCain on September 8, 2016 (S 3300). The legislation was heard by the Senate Committee on Indian Affairs on September 14, 2016 but did not move forward after the hearing. Federal legislation approving and authorizing the settlement was again introduced in the Senate by Senator Flake and Senator McCain on September 7, 2017 (S. 1770) and identical legislation was introduced in the House of Representatives by Representative Gosar on December 21, 2017 (H. R. 4723). The Senate bill was heard by the Senate Indian Affairs Committee on December 6, 2017. ADWR Director Buschatzke testified in support of the settlement at the hearing. Both the Senate bill and the House bill are currently pending before Congress. ADWR continues to provide support for this proposed settlement.

Navajo Nation and Hopi Tribe

Discussions for a settlement of the water rights claims of the Navajo Nation and the Hopi Tribe have been ongoing since 1980s and have included the Navajo Nation, the Hopi Tribe, the United States, ADWR and a number of state water users. Active settlement negotiations between those parties have not occurred since 2012. On March 30, 2016, ADWR hosted a meeting with Governor Ducey, Senator McCain, Senator Flake, representatives of the Navajo Nation and the Hopi Tribe and representatives of the various state parties, including ADWR, to discuss reinitiating settlement negotiations. Although all the parties at the meeting indicated a desire to resume settlement discussions, settlement discussions involving all the parties have not occurred since the meeting. During the past fiscal year, ADWR has expressed its willingness to resume settlement discussions and is hopeful that discussions will occur in the near future. Any settlement discussions will be confidential.

Tonto Apache Tribe

Water rights settlement discussions between the Tonto Apache Tribe, the United States, ADWR and other state parties began in 2014. On May 5, 2016, ADWR hosted a meeting with Senator Jeff Flake, representatives of the Tribe and representatives of various State parties to discuss the status of negotiations. Although ADWR has not been involved in any settlement discussions with the Tribe since that meeting, ADWR has been informed that discussions between the Tribe and other parties have occurred since then. All settlement discussions are confidential.

White Mountain Apache Tribe

In 2009, the White Mountain Apache Tribe, the State of Arizona and a number of state parties reached an agreement to quantify and resolve the Tribe's water rights claims. Federal legislation approving and authorizing the White Mountain Apache Tribe Water Rights Quantification Agreement ("Agreement") was passed by Congress and signed by the President in 2010 (Public Law 111-291). As provided in the Agreement and the Federal legislation, the Agreement will not become enforceable until certain conditions are met, including the issuance of a Record of Decision by the Secretary of the Interior approving construction of the Miner Flat dam and other water infrastructure for use by the Tribe as authorized in the Federal legislation. After the Federal legislation was enacted, it was discovered that construction costs would likely exceed the \$126 million appropriated for construction due to seepage and stability issues at the dam site. To address this issue, Senator Flake introduced legislation in 2017 authorizing monies

appropriated to the Tribe for other water-related purposes to be used for the construction of Miner Flat Dam (S. 140). On October 30, 2017, ADWR Director Buschatzke sent a letter to members of the House Subcommittee on Water, Power, and Oceans expressing the State of Arizona's support for S. 140. ADWR will continue to provide support for the settlement.

Yavapai Apache Tribe

During the past fiscal year, ADWR has had discussions with representatives of the Yavapai-Apache Nation regarding a potential settlement of the Nation's water rights claims. It is expected that settlement discussions will be ongoing during the next fiscal year. Those discussions will be confidential.